United States Court of Appeals for the Second Circuit

APPELLANT'S APPENDIX

77-~~8076~~
1085

B

In The

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 77-8076

UNITED STATES OF AMERICA,

Appellee

-against-

LAWRENCE J. MITCHELL, SIDNEY FOSTER,
JOHN MORRIS, CHARLES COWPERS, LOIS
SAMPSON, RAPHAEL BONILLA, DON WILSON,
WILLIAM HIGHTOWER, TOMMY DAVIS, JOSEPH
SAMPSON, FRANK MOTEN, YVONNE A.
SCHENNAULT, ANGELO RODRIGUEZ, JAMES
LAWS, SEBASTIAN INTERSIMONE,

Defendants-Appellants.

On Appeal from a Judgment From The United States
District Court for the Southern District of New York

APPELLANTS' APPENDIX

UNITED STATES COURT OF APPEALS
FILED
APR 13 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

Frederick H. Cohn
Lead Counsel
299 Broadway
New York, New York 10007
(212) 349-7755

PAGINATION AS IN ORIGINAL COPY

INDEX TO APPENDIX

	Page
DOCKET SHEETS	A1-A87
Rodriguez, Angel	1
Moten, Frank	7
Intersimone, Sebastian	14
Hightower, William	20
Foster, Sidney	26
Sampson, Joseph	31
Sampson, Lois	38
Schennault, Yvonne Alvarez	44
Wilson, Don	50
Laws, James	56
Davis, Tommy	61
Morris, John	66
Mitchell, Lawrence	71
Bonilla, Raphael	76
Cowpers, Charles	82
INDICTMENT 76 CR 324	A-88
REDACTED INDICTMENT 76 CR 324	A-113
OPINION #44578 Memorandum and Order	A-135
OPINION #44573	A-138
OPINION #44760 Memorandum and Order	A-139
OPINION #44768 Memorandum and Order	A-141
OPINION #44769 Memoramdum and Order	A-148
TRANSCRIPT:	
District Court Charge (T.8908-9222)	A-149
JUDGMENT AND COMMITMENT	A-416
Angel Rodriguez	A-416
Frank Moten	A-417
Sebastian Intersimone	A-418
William Hightower	A-419
Sidney Foster	A-420
Joseph Sampson	A-421
Lois Sampson	A-422
Yvonne Alvarez Schennault	A-423
Don Wilson	A-424
James Laws	A-425

INDEX (continued)

	Page
JUDGMENT AND COMMITMENT (cont.)	
Tommy Davis	A-426
John Morris	A-427
Lawrence Mitchell	A-428
Raphael Bonilla	A-429
Charles Cowpers	A-430

TTY OFFENSE PO ☐
INOR OFFENSE MQ ☐
MISDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE ~~XXXXXXXX~~ Assigned: 0208 1 (District / Office)
Disp./Sentence: 0862

U.S. vs.
RODRIGUEZ, ANGEL a/k/a
"Angelo" C 1-21-77
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo Day: 04 05
No. of Dfts: * 33

Yr	Docket No	Def
76	0324	02

U.S. MAG. CASE NO. ▶

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	4-7

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied
AMT Set ↓
$ 000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☐ Pers Recog
☐ PSA
conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began: 4/21/76
Summons Served
First Appearance
High Risk Date
INDICTMENT ☒ Information ☐: 4-5-76
Indict. Waived ☐
In Charging District
Superseding ☐ Indict/Info ☐
ARRAIGNMENT
1st Plea: 5/7/76
Final Plea: 5/7/76
Trial Set For: 7/19/76
☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
☐ NG ☐ G ☐ NOL
TRIAL
Voir Dire ☐
Trial Began: 8-10-76 ☒ J ☐ N
Trial Ended: 11-12-76
Disposition of Charges: 11-12-76
SENTENCE: 1-21-77
☐ Convicted
☐ Acquitted
☐ Dismissed:
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Governm'ts Motion

MAGISTRATE

		DATE	INITIAL/NO
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING { Date Scheduled ▶ / Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
INITIAL/NO.
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst
Daniel J. Beller
791-1992

207

ATTORNEYS Defense ☐ CJA ☐ Ret ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

Roy BLACK

-1414

* Show last names and suffix numbers of other defendants on same indictment/information:

Alvarez, etal.

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
5/7/76	Dft. Rodriguez, Angel (Atty. Present [illegible]) Pleads N/G 10 Days for Motions. Ordered Fingerprinted & Photographed.......Owen J. TrialDate Set for July 19th.....Owen J.	
5-20-76	Filed the following papers rec'dfrom Mag. Office , Southern District of Florida. Docket Entry Sheet Warrant & Indictment 2 Notice of Appearance 2 Appearance Bonds Order Setting Bond Temp. Commitment Waiver of Removal Hearing	

A-1

CHECK THE APPLICABLE DOCKET ENTRIES SHOW SECTION V ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr. Code (c)	Total Days (d)
5-21-76	Filed Dfts. Motion to dismiss indictment or in the alternative for severance of counts.				
5-21-76	Filed Dfts. Motion Regarding Gov't. Witnesses.				
5-21-76	Filed Dfts. Motion to Disclose Grand Jury Proceedings & Memorandum in support thereof.				
5-21-76	Filed Dfts. Motion for Saverance.				
5-21-76	Filed Dfts. Motion to produce Statements & Memorandum in support thereof.				
5-21-76	Filed Dfts. Motion for Discovery & Inspection.				
5-21-76	Filed Dfts. Motion for Severance of Dfts.				
5-21-76	Filed Dfts. Motion for early disclosure of Jencks Act Material & Memorandum in support thereof.				
5-21-76	Filed Dfts. Motion to Transcribe Grand Jury Minutes.				
5-21-76	Filed Dfts. Motion to disclose with the memorandum in support thereof.				
5-21-76	Filed Dfts. Memorandum of Law in support of motion to dismiss.				
5-21-76	Filed Dfts. Motion to Dismiss Indictment.				
5-21-76	Filed Dfts. Motion to compel the Disclosure of all evidence favorable to the Dft.				
5-21-76	Filed Dfts. Motion for Gov't Agents to retain Rough Notes(And Memorandum of Law).				
5-21-76	Filed Dfts. Motion for Concerning Sources of Evidence (And Memorandum of Law)				
5-21-76	Filed Dfts. Memorandum of Law in support of motion for severance of dfts.				
5-21-76	Filed Dfts. Demand for Discovery & Inspection.				
5-21-76	Filed Dfts. Memorandum of Law in support of Dfts. Motion for a Bill of Particulars.				
5-21-76	Filed Dfts. Memorandum in support of motion to transcribe Grand Jury Minutes.				
5-21-76	Filed Dfts. Motion for a Bill of Particualrs.				

(Continued)

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

DATE	PROCEEDINGS
5-27-76	Filed Notice of Appearance by Roy Black, Suite 1402, 150 S.E. Second Ave., Miami, Florida, & by Henry Putzell, III, 140 West 62nd St., NYC 10023- Tel. 212 956 7144.
6-1-76	All motions rtn. 6/1/76 are adjourned to Jun 4th @2:00 P.M.
6-3-76	[illegible] 4-29-76 - 10:30 A.M
6-15-76	Filed Gov'ts. Bill of Particulars.
6-16-76	Filed Opinion #44978. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated, The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith.....Owen J. (mailed notice)
6-18-76	Filed Order that each dft. represented by counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)
6-30-76	Filed order that all Voir Dire Questions are to be submitted by 7-14-76 OWEN.J.m/n.
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied. OWEN.J.m/n.
6-21-76	Surpession Held. Owen J.
7-7-76	Filed Order that dft. Angel Rodriguez be examined by a qualified internist, & that Daniel Shapiro, M.D., 65 E.75th St., NYC N neurologist, & George Brief, M.D. 36 E.70th St., NYC a qualified internist conduct examination of dft. as indicated. Etc, & that dft. pay reasonable fee to each said physician for services as indicated......Owen J. (mailed notice)
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers....Owen J. (mailed notice)
7-15-76	Filed Opinion #44760. All Motions of dfts. as moved for discovery & inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The foregoing is so Ordered....Owen J. (mailed notice)

DATE	PROCEEDINGS
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings dated 5-7-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings dated 5-10-76
7-16-76	Filed Opinion #44768. All motions seeking disclosure of Gov't witnesess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movmants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated......., Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (maileda notice)
8-9-76	All Counsel Present for P.T.C. - [illegible]
8-10-76	Trial Begun Without Dft. Juan Alvarez (His Atty. Present) Jury Selection Begun interpreters Gustavo Hoffman & Anita Zevallos Sworn - [illegible]
8-11-76	All Jury Selection Cont'd Gov't. makes motion to Remand Dfts. William Hightower, Sidney Foster, Joseph Sampson, Lois Sampson - Decision Reserved!
8-12-76	Jury Selection Cont'd Surpression Hearing Cont'd & Concluded..
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
3-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 Concerning Dft. [illegible] Intersome Court Findings : Tapes are Original Unaltered Version....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd - [illegible]
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court.....Owen J. (mm)

Page #5

DATE	PROCEEDINGS
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Con't'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mn)
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony,etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J Fiumara refuses to testify as indicated....Owen J.(mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions.
10-13-76	Trial Cont'd - motions cont'd.
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd.
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76.
10-21-76	Trial Cont'd - Gov't Summations begun....Owen J.
10-22-76	Summations Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & concluded Gov't Rebuttal Begun.
11-4-76	Gov't Rebuttal Cont'd.
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76.Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope -dtd. 11-8-76 Notes from Deliberating Jury. Ordered Sealed by the Court on this date.....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76 Questions subm. to Court by Counsel in jury selection........Ordered Sealed by the Court.......Owen J.

76 Cr. 324

Angel Rodriguez

DATE	PROCEEDINGS
11-12-76	/Filed One Sealed Envelope - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ......Owen J.
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1976 from 10:00 A.M. on ----Dft.Vy. 1 Guilty,Cts. 4-7-Guilty - Bail Revoked - Remanded. Owen J.
11-5-76	Trial Cont'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberations Begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	Deliberations Cont'd
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed Transcript of record of proceedings, dated Oct. 13-14-15-18, 1976
11-17-76	Filed Transcript of record of proceedings, dated Aug. 19-20-23-24, 1976
11-17-76	Filed Transcript of record of proceedings, dated Nov. 1, 2, 3, 4 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Aug. 10, 11, 12, 13 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep. 23, 24, 27, 28, 29 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep. 30, 1976
11-17-76	Filed Transcript of record of proceedings, dated Oct. 19, 21, 22, 25, 26, 1976
11-17-76	Filed Transcript of record of proceedings, dated Oct. 27, 28, 29 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Oct. 1, 5, 6, 7, 8, 12 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep. 16, 17, 20, 21, 22 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Aug. 25, 26, 27, 30 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep. 9, 10, 13, 14, 15 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep. 1, 2, 3, 7, 8 - 1976
11-17-76	Filed Transcript of record of proceedings, dated June 1, 21, 24 and Jul. 1, 2, 12 and Aug. 10, 11, 12 - 1976
11-17-76	Filed Transcript of record of proceedings, dated Aug. 31 - 1976
12-13-76	Filed Notice of Certification of Record to the USCA.
12-15-76	Filed Dfts. Motion for Judgment of Acquittal under Rule 29(c) FRCrP.
12-15-76	Filed Dfts. Memorandum of Law.
12-23-76	Filed transcript of record of proceedings, dated 11-5, 6, 7, 8, 9, 10, 11, 12 - 1976
1-28-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77. (mailed notice)
1-21-77	Filed Judgment & Commitment (Atty. Roy Black Present) #77232 The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of count 4 - FIFTEEN (15) YEARS, and a Committed Fine of $25,000.00, Count 5 - FIFTEEN (15) YEARS, and a Committed Fine of $25,000.00 Count 6- FIFTEEN (15) YEARS, Count 7 -FIFTEEN (15) YEARS,Count 1, - FIFTEEN(15) YEARS. The terms imposed in Counts 4,5,6,7 & 1 are to run concurrently to each other. The Committed Fines imposed in Cts. 4 & 5 are to be Consecutive Fines for a total of $50,000.00......Owen J. Issued Commitment 1-31-77.
2-8-77	Filed True Copy of J&C with marshals ret. Dft. delivered to Warden,MCC,NY on 1-21-77.

ETTY OFFENSE PO ☐
MINOR OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel x

JUDGE/XXXXXX Assigned 0862
District 0208 Office 1
Disp./Sentence

U.S. vs.
MOTEN, FRANK a/k/a
"Uncle"
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo. 04 Day 05
No. of Defs * 33

Yr 76 Docket No. 0324 Def 04

U.S. MAG. CASE NO. ▶ 76-510

OFFENSES CHARGED

U.S. TITLE/SECTION		ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:848	Continuing narcotics.	3
21:812, 841	Distr. & possess. of Cocaine II.	8-11

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set $600,000
Date
☒ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☐ Pers. Recog.
☐ PSA

Conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began 4/21/76
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District
INDICTMENT ☒ Information ☐ 4-5-76
Superseding ☐ Indict/Info ☐
ARRAIGNMENT
1st Plea 4-29-76 ☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea ☐ NG ☐ G ☐ NOL
TRIAL
Trial Set For
Voir Dire ☐
Trial Began ☐ J ☐ N J
Trial Ended

SENTENCE
Disposition of Charges
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Government's Motion

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING — Date Scheduled ▶ Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO.
Tape Number

OUTCOME
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

ATTORNEYS

Defense: ☐ CJA ☒ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

U.S. Attorney or Asst.
Daniel J. Beller
791-1992

Arnold E.Brown, 277 Bway, NYC 10007
Tel. 964 3456

JS5 1/11/79

* Show last names and suffix numbers of other defendants on same indictment/information.

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c)

DATE — PROCEEDINGS (DOCUMENT NO.)

4-5-76 Indictment filed. Lasker, J.
Indictment ordered sealed. Lasker, J.
Indictment ordered unsealed. B/W ordered. B/W issued.
4-20-76 Indictment ordered resealed. Brieant, J.
Indictment ordered unsealed. Brieant, J.
4-21-76 Motion for reargument granted and the reargument for the reduction of
4-27-76 bail is still denied. MacMahon, J.
4-29-76 Deft. (Atty. present) enters plea of not guilty. Bail continued as fixed by Magistrate $600,000. Remanded. Case assigned to Judge Owen. Atty. directed to report to chambers immediately. MacMahon, J.

5-5-76 Filed the following papers rec'e from Mag. Bernikow (Mag.#76-510)
Docket Entry Sheet
Criminal Complaint
Disposition Sheet
Warrant of Arrest - executed 4/21/76
Notice of Appearance by Joseph Goldberg, 225 Bway, NYC 10007 Tel. 964-34

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 U.S.C. [illegible]

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
4-27-76	Filed Dfts. Application for release.				
4-27-76	Filed Memo. End. on Application for release. Motion for reargument granted & on reargument the motion is still denied. ....Mac Mahon (mailed notice)				
4-29-76	Frank Moten(Atty. Arnold E. Brown present) Bail reduction application Bail cont'd at $600,000,000. Dft. Remanded" Denied Owen J.				
[illegible]-23-76	Issued Remand.				
5-13-76	Filed Dft.s Notice of Motion for an order directing dfts. bail be reduced & further relief.				
5-18-76	Filed Mag. Final Commitment.				
5-18-76	Filed Gov'ts Memorandum in opposition to Moten's Application for XXX a reduction in bail.				
5-21-76	Filed Dfts. Reply Memorandum in support of the application to reduce bail.				
5-21-76	Filed Dfts. Affdvt. & Memorandum in support of various pretrial applicecations.				
5-24-76	Filed Dfts. Notice of Motion for order granteing further relief Rat. 6/1/76.				
5-25-76	Dft. Frank Moten Appears (Atty. Nancy Kusnor Present) for bail application. Application is denied.......Owen J.				
6/1/76	All Motions Rtn. Jun 1st Are Adjourned to June 4th @2:00P.M.				
6-7-76	Filed Dfts. Notice of Appeal from Order denying motion to reduce bail. XXXX dtd. 5-25-76 (mailedx notice)				
6-8-76	Filed transcript of record of proceedings dated 4-27-76				
6-8-76	Filed transcript of record of proceedings dated 4-26-76				
6-3-76	Filed transcript of record of proceedings dated 4-29-76-10:30 AM.				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't. concession is made the order of this court, & the Gov't is to forthwith comply therewith.....Owen J.(mailed notice)				
6-18-76	Filed Order that each dft. represented yb councel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
06-23-76	Filed notice of certification & transmittal of the record on appeal to the U.S.C.A.				

Cont'd.

Dft. 4

riminal 324 MOTEN, FRANK, etc. Broderick

DATE	PROCEEDINGS Page #3 ~~Judge Owen~~
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.
*6-21-76	Surpression Held.....Owen J.
7-7-76	Filed Memorandum Q Order. Dft. Frank Moten moves to suppress all interceptions of his conversations as indicated. It is accordingly denied..The foregoing is so ordered........Owen J. (mailed notice)
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers....Owen J. (mailed notice)
7-15-76	Filed Opinion #44760. All Motions of dfts. as moved for discovery & inspection & bill of particulars, are denied, Certain dfts. moved for psychiartric information as indicated, The Foregoing is so Ordered.....Owen J. (mailed notice)
6-18-76	Filed transcript dated May 25, 1976 (Deft Moten)
	Filed transcript of record of proceedings dated 5-6-76 Filed [illegible] of record of proceedings [illegible] 5-7-76 Filed [illegible] 5-20-76 [illegible] of proceedings dated 5-10-76
7-16-76	Filed Opinion #44768. All motions seeking disclosure of Gov't witnessess are denied. Dfts. mocions to disclose indentity of cooperating dfts.denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue , hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated........Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (mailedn notice)
08-03-76	Filed Deft's. affidavit & notice of motion to preclude use of wiretap evidence.
08-04-76	Filed Deft's. proposed voir dire examination of the jury panel.
8-9-76	All Counsel Presnt for P.T C.
	(Cont'd)

DATE	PROCEEDINGS
	Judge Owen
8-10-76	Trial Begun - Jury Selection begun Interpretors Gustave Hoffman & Anita Zevallos sworn. Surpression Hearing held for Dft. Frank Moten & Adjourned to 8/11/76.
8-11-76	Jury Selection Cont'd - Gov't makes motion to Remand Dfts.William Hightower,Sidney Foster,Joseph Sampson,Lois Sampson - Decision Reserved!
8-12-76	Jury Selection Cont'd Surpression hearing Cont'd & Concluded.
8-11-76	Filed True Copy of USCA Mandate. Petition for writ of mandamus is denied. (mailed notice)
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 concerning Dft. Intersome Court Finding: Tapes Are Original Unaltered Version.....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd -
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher forservices rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court......Owen J.(mm)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt.#1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of immunity as to Peter J. Fiumara,witness
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall. be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.........Owen J
	(Cont'd)

Brodenck

Dft.

76 Cr. 324 Frank Moten a/k/a Uncle

Page #5

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order Judgment
9-23-76	Trial Cont'd	
9-24-76	Trial Cont'd	
9-27-76	Trial Cont'd	
9-28-76	Trial Cont'd	
9-29-76	Trial Cont'd	
9-30-76	Trial Cont'd	
10-1-76	Trial Cont'd	
10-4-76	Trial Adj.	
10-5-76	Trial Cont'd	
10-6-76	Trial Cont'd	
10-7-76	Trial Cont'd	
10-8-76	Trial Cont'd	
10-12-76	Trial Cont'd - Gov't Rests, Motions.	
10-13-76	Trial Cont'd Motions Cont'd	
10-14-76	Trial Cont'd	
10-15-76	Trial Cont'd	
~~10-29-76~~	~~Filed Dfts Moten'~~.. requested marshalling of the evidence.	
10-18-76	Trial Cont'd	
10-19-76	" "	
10-20-76	Trial Adj. to 10-21-76.	
10-21-76	Trial Cont'd - Gov't Summation begun...Owen J.	
10-22-76	Summation Cont'd	
10-25-76	" "	
10-26-76	" "	
10-27-76	" "	
10-28-76	" "	
10-29-76	" "	
11-1-76	" "	
11-2-76	" " & concluded Gov't Rebuttal Begun.	
11-3-76	Gov't Rebuttal Cont'd.	
11-4-76		
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76 - Ordered Sealed by the Court on this date.......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jur. Ordered Sealed by the Court.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection.....Ordered Sealed by the Court...Owen J.	
11-12-76	Filed One Envelope Sealed ..dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ....Owen J.	
11-12-76	P.S. I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1976 from 10:00 A.M. on....Dft. 1 - Guilty:Cts.3,10 & 11 - Hung Jury - Owen J. Mistrial Granted. Cts. 8,9 - Guilty. Bail Motion to be Argued 11-18-76.......	
	Trial Cont'd - Charge to Jury	
11-5-76	Charge Cont'd & Deliberations Begun.	
11-6-76	Deliberations Cont'd	
11-7-76	" "	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" " & Concluded.	
11-12-76		

76 Cr. 324 Moten

Page 6

DATE	PROCEEDINGS	Date Orde Judgment N
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed Transcript of record of proceedings dated June 1, 2, 24 & July 1, 2, 12 & Aug 10, 11, 12 -	
11-17-76	Filed Transcript of record of proceedings dated Aug 10, 11, 12, 13 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Aug 17, 20, 23, 24 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Aug 25, 26, 27, 30 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Aug 31, 1976	
11-17-76	Filed Transcript of record of proceedings dated Sep 1, 2, 3, 7, 8 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Sep 9, 10, 13, 14, 15 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Sept 16, 17, 20, 21, 22 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Sep 23, 24, 27, 28, 29 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Sep 30, 1976	
11-17-76	Filed Transcript of record of proceedings dated Oct 1, 5, 6, 7, 8, 12 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Oct 19, 21, 22, 25, 26 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Oct 27, 28, 29 - 1976	
11-17-76	Filed Transcript of record of proceedings dated Nov 1, 2, 3, 4 - 1976	
12-8-76	Pre Trial Conference held as to dfts. Moten, etc. Trial Jan. 10, 1977 & conference adj. to Dec. 14, 1976 @4:30 P.M. ......Broderick J.	
12-14-76	Pre Trial Confer. held. as to Dft. Moten, etc. Broderick J.	
12-15-76	Pre Trial Conference held as to Dft. Frank Moten...Broderick J.	
12-17-76	Pre Trial Conference Held as to dfts. Frank Moten, etc.. Trial Jan, 10, 1977 and conference adj. to Jan. 4, 1977 @ [illegible] P.M.....Broderick J.	
12-23-76	Filed Govts. Nolle Prosequi....Granted. Broderick J. (as to counts 3, 10 & 11 only)	
12/23/76	Filed transcript of record of proceedings, dated Nov 5, 6, 7, 8, 9, 10, 11, 12 (1976)	
1-28-77	Filed NOTICE OF APPEAL by the deft. to the USCA from the Judgment filed 1-21-77. m/n to US atty & deft.	
1-21-77 (77,240)	Filed JUDGMENT AND PROBATION/COMMITMENT ORDER - The deft is hereby committed to the custody of the Atty Gen for impr. for a period of; Ct.8, FIFTEEN (15) YEARS, and a FINE of $25,000.00. Ct. 9, TEN (10) YEARS and a FINE of $25,000.00. The above prison terms and fines are to run CONSECUTIVELY to each other. Pursuant to provisions of Title 21, Sec 841, U.S. Code, the deft is placed on SPECIAL PAROLE for a term of THREE (3) YEARS on Each of Counts 8 & 9 to run CONSECUTIVELY to each other, and to commence upon the expiration of his confinement. Ct. 1 FIFTEEN (15) YEARS to run CONCURRENTLY to terms imposed on Cts. 8 & 9. The deft is placed on SPECIAL PAROLE for a term of THREE (3) YEARS to run CONCURRENTLY to parole imposed in Counts, 8 & 9 above. The deft is to remain at MCC for a period of THIRTY (30) Days from today. SO ORDERED OWEN, J.	
2-8-77	Filed commitment [illegible] entered [illegible], delivered to MCC - 1-21-77.	
2-18-77	Filed Deft's Notice of Motion For an orderof discovery. Ret: to be set by the court.	
2-23-77	Filed Deft's MEMORANDUM OF LAW. insupport of his motion for a new trial.	
2-24-77	Filed NOTICE OF MOTION for the issuance of an order directing the U.S. Bureau of Prisons not to transfer deft form the MCC for 30 days.	

324

USA -vs- FRANK MOTEN

Page #7

DATE	PROCEEDINGS
3-2-77	Filed transcript of record of proceedings, dated 12-14-76
3-2-77	Filed transcript of record of proceedings, dated 12-15-76
3-2-77	Filed Govt's Affidavit in opposition to deft's motion for an order directing the Bureau of Prisons not to transfer the deft from the MCC.

ty OFFENSE PO ☐
ior OFFENSE MO ☐
isDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE XXXXXX Assigned
0862
Disp./Sentence
0208 1
District Office

U.S.
vs.
INTERSIMONE, SABASTIAN a/k/a
"Mr. B" Cl 1-31-78
(LAST, FIRST, MIDDLE)
JUVENILE ☐

Case Filed Mo. Day: 04 05
No. of Def's: *33

Yr.	Docket No.	Def.
76	0324	05

U.S. MAG. CASE NO. 76-510

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	12

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied
AMT Set
$ 000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☐ Pers. Recog
☐ PSA
conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or
U.S. Custody Began: 04-21-76
Summons Served
First Appearance
High Risk Date
Indict Waived ☐
In Charging District

INDICTMENT ☒
Information: 4-5-76
Superseding ☐ Indict/Info ☐

ARRAIGNMENT: 4-29-76
1st Plea: 4-29-76 ☒ NG ☐ G ☐ NOL
☐ G. Plea W/Drawn
Final Plea ☐ NG ☐ G ☐ NOL

TRIAL
Trial Set For ☐
Voir Dire ☐
Trial Began ☐ J
N
☐ J
Trial Ended

Disposition of Charges
☐ Convicted
☐ Acquitted
☐ Dismissed:
☐ On Governm'ts Motion

SENTENCE
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP: ☐ WP

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled ▶ / Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO.
Tape Number
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst
Daniel J. Beller
791-1992
207

ATTORNEYS Defense: ☐ CJA ☒ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CO

Wallace Musoff Wagman Cannon & Musoff, P.C.
136 E. 57th St., NYC 10022 Tel. 753-2900.
-951

* Show last names and suffix numbers of other defendants on same indictment/information.
Alvarez, et al.

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
4-29-76	Deft. (Atty present) enters plea of not guilty. Bail continued as fixed by Magistrate $125,000. Remanded. Case assigned to Judge Owen for all purposes. Attys' directed to report to chambers immediately.	MacMahon, J.
5-3-76	Remand Issued.	
5-5-76	Filed the following papers rec'd from Mag. Bernikow. (Mag. #76-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Warrant for Arrest- executed 4-21-76. Notice of Appearance by Wagman, Cannon & Musoff, p.c. by Wallace Musoff, 136 E. 57th Street, NYC 10022, 753-2900.	

EXCLUDABLE DELAY (a) (b) (c) (d)

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V. ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 U.S.C § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	(c)	Total Days (d)
4-29-76	Dft. Sebastian Intersimone(Atty. Wallis Musaff Present) Applies for reduction of Bail $125,000.00 as set by Mag. Application. Denied.......Owen J.				
5-4-76	Filed PRB in the Amt. of $125.000.00 UpsMdiedd Ins. Co(secured)				
5-21-76	Filed Dfts. Notice of Motion for an order Directing certain Discovary,etc. & Gov't produce dft. all evidemce as indicated; bill of particulars & dismissing indictment & granting severance.				
05-21-76	Filed Remand.				
05-25-76	Filed Mag. Final Commitment.				
6-1-76	All Motions Rtn. Today June 1st are Adjourned to Jun 4th @2:00 P.M.				
6-3-76	Filed transcript of record of proceedings dated 4-29-76-10:30 A.M				
6-15-76	Filed Gov'ts Bill of Particulars.				
6-16-76	Filed Opinion #44678. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court, & the Gov't is to forthwith comply therewith.....Owen J.(mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673.;Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 313 ....Owen J. (mailed notice)				

Cont'd.

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

76 Cr. 324 Intersimone, Sabastian, etc.

DATE	PROCEEDINGS Page #3 Judge Owen
7-9-76	Filed Memorandum Order Trial [illegible] been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly [illegible] Chambers....Owen J. (mailed notice)
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered......Owen J..(mailed noti ce)
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings dated 5-7-76
7-20-76	Filed transcript of [illegible] proceedings, dated 5-20-76
7-20-76	Filed transcript of [illegible] proceedings, dated 5-10-76
7-16-75	Filed Opinion #44768. All motions seeking disclosure of Gov't witnesses are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movmants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue , hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated........Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't ordered to deliver in camera inspection as indicated. ....Owen J. (mailedx notice)
7-26-76	Filed Dfts. Affdvt in support of application to produce & permit to copy & inspect as indicate prior to trial.
8-9-76	All Counsel Present for P.T.C.
8-10-96	Trial Begun - Jury Selection begun - Interpreters Gustavo Hoffman & Anita Zevallos Sworn.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd. Surpression hearing cont'd & concluded.
8-20-76	Filed True Copy of USCA Mandate. petition for a writ of mandamus together with motion for a stay is denied. (mn)
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning authority of tape 3505-05 concerning Dft. Intrrsome court finding: Tapes are original unaltered version.
9-8-76	Trial Cont'd

(Cont'd)

76 Cr.324 Sabastian Intersimone,etc.

Page #4

DATE	PROCEEDINGS
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd -
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court.....Owen J.(mn)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated...This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.....Owen J.(mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial Cont'd - Motions cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76.
10-21-76	Trial Cont'd - Gov't Summation begun...Owen J/
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-B6	" "
11-2-76	" "
11-3-76	" " & concluded ~~XX~~ Gov'ts Rebuttal begun.

(Cont'd)

DATE	PROCEEDINGS
11-4-76	Gov't Rebuttal Cont'd.
11-12-76	Filed One Sealed Envelope - Dtd. 10-6-76, Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - Dtd. 8-30-76. Ordeeed Sealed by the Court on this date.....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date.....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection. Ordered Sealed by the Court......Owen J
11-12-76	Filed One Evnelope Sealed. Dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ....Owen J.
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1977,,from 10:00 A.M. on - Dft. Ct. 1 & 2 - Guilty - Bail Revoked - Remanded. Owen J.
11-5-76	Trial Cont'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberations Begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed Transcript of record of proceedings, dated Jun 1, 2, 3, 4 & Jul 1, 2, 12 & Aug 10, 11,
11-17-76	Filed Transcript of record of proceedings, dated Aug 10, 11, 12, 13-1976
11-17-76	Filed Transcript of record of proceedings, dated Aug 19, 20, 23, 24-1976
11-17-76	Filed Transcript of record of proceedings, dated Aug 25, 26, 27, 30-1976
11-17-76	Filed Transcript of record of proceedings, dated Aug 31 1976
11-17-76	Filed Transcript of record of proceedings, dated Sep 1, 2, 3, 7, 8-1976
11-17-76	Filed Transcript of record of proceedings, dated Sep 9, 10, 13, 14, 15-1976
11-17-76	Filed Transcript of record of proceedings, dated Sep 16, 17, 20, 21, 22-1976
11-17-76	Filed Transcript of record of proceedings, dated Sep 23, 24, 27, 28, 29-1976
11-17-76	Filed Transcript of record of proceedings, dated Sep 30-1976
11-17-76	Filed Transcript of record of proceedings, dated Oct 1, 5, 6, 7, 8-1976
11-17-76	Filed Transcript of record of proceedings, dated Oct 19, 21, 22, 25, 26-1976
11-17-76	Filed Transcript of record of proceedings, dated Oct 27, 28, 29-1976
11-17-76	Filed Transcript of record of proceedings, dated Nov 1, 2, 3, 4-1976
12-23-76	Filed transcript of record of proceedings dated 11-5, 6, 7, 8, 9, 10, 11, 12-1976
1-4-77	Dft. Sebastian Intersimone Appears with his atty. David Keegen & makes motion for new counsel & adj. of Sentencing. Motion Granted & sentence scheduled for Jan 31st,1977 @10:00 A.M....Owen J.
1-27-77	Filed Dfts. Notice of Motion & Affdvt. for order of Judgment of acquittal, New Trial, & names & address of jurors & alternate jurors, etc...Ret. 1-31-77.
1-31-77	Filed Order to Show Cause permitting dfts atty. to inspect & copy sealed transcript of proceedings pages 4177 through 4193 of the trial transcript of 9/20/76....Ret. 1/31/77.

DATE	PROCEEDINGS
1-31-77	Filed Judgment & Commitment (Atty. David Keegan Present) #77,237 The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of FIFTEEN (15) YEARS on Each of Counts 1 & 12, to run concurrently to each other. Pur. to T 21, Sec. 841, U.S.Code, the dft. is placed on Special Parole for a term of THREE (3) YEARS on Each of Counts 1 & 12 to run concurrently to each other & to commence upon his release from confinement. It is Adjudged, the dft. be Fined the sum of $25,000.00 on Count 1 to be paid or the dft. is to stand committed until the fine is paid or he is otherwise discharged according to law. The dft. is to remain at MCC for a period of THIRTY(30) DAYS from today.......Owen J Issued Commitment 2-1-77
2-1-77	Filed Order that dft. be kept at the Metropolitan Correction Center for a continuous period of 30 days following the date of this .order.....Owen J.(mn)
2-4-76	/Filed Dfts. Notice of Appeal from judgment ent. 1-31-76. (mailed notice)
2-8-77	Filed True Copy of J&C with marshals ret. Dft. delivered to Warden, MCC, NY on 1-31-77.
2-9-77	Filed Transcript of proceeding dtd. 11-18-76.
2-17-77	Filed transcript of record of proceedings, dated 2-1-77
2-17-77	Filed transcript of record of proceedings, dated 1-4-77
2-17-77	Filed transcript of record of proceedings, dated 1-31-77

CRIMINAL DOCKET - U.S. District Court

Cl 1-21-77

TTY OFFENSE PO ☐
INOR OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE XXXXXXX Assigned 0862
Disp./Sentence
0208 District 1 Office

U.S. vs. HIGHTOWER, WILLIAM
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo 04 Day 05
No. of Dfts * 33

76 0324 09

U.S. MAG. CASE NO.

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	19-23

SUPERSEDING COUNTS

BAIL
☐ Denied
AMT Set $100,000
☐ Fugitive
☐ Pers. Recog.
☐ PSA
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
CONDITIONS
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or
U.S. Custody Began
Summons Served
First Appearance

High Risk Date
Indict. Waived ☐
In Charging District

INDICTMENT ☒
Information ☐
4-5-76
Superseding ☐ Indict/Info ☐

ARRAIGNMENT
1st Plea 05-06-76
☒ NG ☐ G ☐ NOL
G Plea W/Drawn
Final Plea
☐ NG ☐ G ☐ NOL

TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 ☒ J ☐ NJ
Trial Ended 11-12-76

Disposition of Charges* 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On Government's Motion

SENTENCE 1-21-77
☐ On All Charges
☐ On Lesser Offense
☐ WOP

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT			
OFFENSE (in Complaint)			

INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING — Date Scheduled; Date Held
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO
Tape Number
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

ATTORNEYS Defense ☐ CJA ☒ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

U.S. Attorney or Asst.
Daniel J. Beller
791-1992

207

Harold N. Frankel
253 Bway, NYC 10007
Co-7-1122

1216

* Show last name and suffix number of other defendants on same indictment/information

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c)

DATE	(DOCUMENT NO.) PROCEEDINGS
4-5-76	Indictment filed. Lasker, J.
	Indictment ordered sealed. Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.
	Indictment ordered resealed. Brieant, J.
4-21-76	Indictment ordered unsealed. Brieant, J.
4-21-76	Bench Warrant Issued.
5-6-76	Dft. William Hightower present (w/o attty.) Court directs a N/G plea be enter Bail set $100,000.00 Cash or surety......Wyatt J.
5-6-76	Court directs Dft. to appear at Pre-Trial Conference before Judge Owen at 10 a.m. 5/7/76 Room 110......Wyatt J.
5-20-76	Filed the following papers rec'd from Magistrates Office, District of Maryland. Docket Entry Sheet - S76-350M Notice to Warden - Dft. Released on 100,000 Bond Appearance Bond - PRB in the amt. of $100,000 Unsecured. - 2 Waiver of Removal Hearing Bail Reform Act Form No. 1. Mag. Temp. Commitment.
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
6-3-76	Filed transcript of record of proceedings, dated 4-29-76-10:30 A.M.				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated, The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith.......Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76..directly to Chambers. .....Owen J. (mailed notice)				
7-15-76	Fild Opinion #44760. All Motions of Dfts. as moved for discovery & inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered....Owen J. (mailed notice)				
7-20-76	Filed transcript of record of proceedings, dated 5-6-76				
7-20-76	Filed transcript of record of proceedings, dated 5-7-76				
7-20-76	Filed transcript of record of proceedings, dated 5-20-76				
7-20-76	Filed transcript of record of proceedings, dated 5-10-76				

Cont'd.

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

76 Cr. 324 William Hightower Dft.

Page #3

DATE	PROCEEDINGS
7-16-76	Filed Opinion #44768, All motions seeking disclosure of Gov't witnesses are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't ordered to deliver in camera inspection as indicated. ....Owen J. (mailed notice)
8-10-76	Fil d Informantion of Prior Felony Conviction on 9-12-50.
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial begun - Interpreters Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd - Gov't makes motion to remand dfts. William Hightower, et al. decision reserved!
8-12-76	Jury Selection Cont'd Surpresscion cont;d & concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 of concerning Dft. Intersome Court finding: Tapes Are Original Unaltered version....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
	Filed Order that each counsel who is appointed under the Criminal Justice Act is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court...Owen J. (mn)
9-15-76	Filed Notice of Appearance by HaroldN Frankel, 253 Bway, NYC 10007, CO7-1122.
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.

(Cont'd)

DATE	PROCEEDINGS
	Judge Owen
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mn)
10-8=76	Filed Gov't's Application for an order of immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony, etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.......Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9030-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Cont'd & Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Counts 23 is Dismissed by Court as to Dfts. Hightower & Foster. Gov't Summation begun......Owen J.
10-22-76	Summation Cont'd.
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Concluded Gov't Rebuttal Begun.
11-4-76	Gov't Rebuttal Cont'd.
11-9-76	Filed CJA Copy 2 Approving payment to Harold Frankel, 253 Bway, NYC 10007 as dfts. counsel.......dtd. 9-20-76.........Owen J.
11-9-76	Filed CJACopy 5 Appointing counsel for dft., Harold Frankel , 253 Bway, NYC 10007 dtd. 9-20-76.......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date.........Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date........Owen J.

(Cont'd)

75 Cr. 324 William Hightower

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date O Judgme
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberatin Gury. Ordered Sealed by the Court on this date............Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by Counsel in jury selection....Ordered Sealed by the Court......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76 ....Owen J.	
11-12-76	P.S.I. Ordered for Each Dft. - Verdict - Sentencing date for all dfts. - Jan 10,1976 from 10:00 A.M. on - Dft.. - Cts. 16,17 & 19 Guilty Ct. 18 N/G. - Bail Revoked - Remanded......Owen J.	
11-5-76	Trial Cont'd - Charge to Jury.	
11-6-76	Charge Cont'd & Deliberations Begun.	
11-7-76	Deliberations Cont'd	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" "	
11-12-76	" " & Concluded.	
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed transcript of record of proceedings, dated Jun.1,21,24,& Jul.1,2,12 & Aug.10,11,	12-19
11-17-76	[illegible] Aug. 10,11,12,13, -1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 19,20,23,24-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 25,26,27,30-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 31,1976	
11-17-76	Filed transcript of record of proceedings, dated Sep.1,2,3,7,8 -1976	
11-17-76	[illegible] Sep. 9,10,13,14,15-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep.16,17,20,21,22-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep.23,24,27,28,29-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 30-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct. 1,5,6,7,8,12-1976	
11-17-76	[illegible] Oct. 19,21,22,25,26 -1976	
11-17-76	[illegible] Oct.27,28,29 -1976	
11-17-76	[illegible] Nov. 1,2,3,4-1976	
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12 -1976	
1-27-77	Filed Dfts. Notice of Appeal from the Judgment dtd. 1-21-77.(mailed notice)	
1-21-77	Filed Judgment & Commitment (Atty. Harodd O.N. Frankel Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of TWELVE (12) YEARS, on Each of Counts 1,19,20 & 22 to run concurrently to each other. Pur. to the provisions of T.21,Sec.841, U.S.Code,the Dft. is placed on Special Parole for a term of THREE YEARS(3) on Each of Counts 1,19,20 & 22, to run concurrently to each other & to commence upon the expiration of his confinement. Dft. is to remain at MCC for TWO(2) weeks from this date.......Owen J. Issued Commitment 1-31-77.	
2-2-77	Filed True Copy of J&C with marshals ret. Dft. delivered to Warden, MCC,NY on 1-21-77.	
2-8-77	Filed Dfts. Notice of Motion & Affdvt. & Memorandum for a New Trial.Ret. 2-17-77 or soon after.	

DATE	PROCEEDINGS	Date Ord Judgment
2-9-77	Filed Dfts. Notice of Motion & Affdvt. & Memorandum for order setting bail pending appeal. Ret. 2-17-77.	
2 22-77	Filed Memo. End. on letter to Judge Owen from Irving Anolik, Dfts. counselor. dtd. 2-7-77. Motion denied without prejudice to its renewal, Etc. ....So Ordered Owen J. (mn)	
2-22-77	Filed Memo. End. on motion dtd. 2-9-77. Motion Denied as indicatedd......Owen J. (mN)	
2 22 77	Filed Memo. End, on motion dtd. 2-8-77. Motion Denied as indicated.....Owen J. (mn)	
2-22-77	Filed One Envelope Sealed & Place in vault with Memo. End. Minutes of January 20,1977 are hereby Ordered Unsealed......Owen J.(mn)	
2-22-77	Filed Transcript of proceedings dtd. 1-20 77.	

CRIMINAL DOCKET

TY OFFENSE PO ☐
OR OFFENSE MO ☐
SDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE/XXXXXX Assigned 0862
Disp./Sentence
0208 District 1 Office

U.S. vs. FOSTER SIDNEY a/k/a "Chinch" (LAST, FIRST, MIDDLE) cl. 1-21-77

JUVENILE ☐

Case Filed Mo. Day 04 05
No. of Defs * 33

76 0324 10
Yr Docket No

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	21, 23

SUPERSEDING COUNTS

U.S. MAG CASE NO

BAIL • RELEASE
☐ Denied
AMT Set $ 000
☐ Fugitive
☐ Pers. Recog.
☐ PSA
conditions
Date
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or
U.S. Custody Began
Summons Served
First Appearance
High Risk Date
In Charging District

INDICTMENT ☒
Information ☐ 4-5-76
Indict Waived ☐
Superseding ☐ Indict/Info ☐

ARRAIGNMENT
1st Plea
Final Plea
Trial Set For
☐ NG ☐ G ☐ NOL
G Plea W/Drawn
☐ NG ☐ G ☐ NOL

TRIAL
Voir Dire ☐
Trial Began 8-10-76 ☒ J ☐ N J
Trial Ended 11-12-76

Disposition of Charges 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ WOP ☐ WP
☐ On Government's Motion

SENTENCE 1-21-77
☐ On All Charges
☐ On Lesser Offense(s)

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING
Date Scheduled
Date Held
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO.
Tape Number

OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst

Daniel J. Beller
791-1992

207

ATTORNEYS Defense ☒ CJA ☐ Ret ☐ Waived ☐ Self ☐ None / Other ☐ FD ☐ CD

1389

* Show last names and suffix numbers of other defendants on same indictment/information.

Alvarez, et al.

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
5-13-76	Dft. Sidney Foster (Atty. Theophils Jones Present) & enters a N/G Plea. Bail $10,000.00 PRB co-signed by sister.......Owen J.	
5-21-76	Dft. Sidney Foster(Atty. Theophilus Jones Present)Mr. Jones Makes Motion to be relieved as counsel. Motion is Granted..Counsel is to be appt'd Under CJA..........Owen J.	
6-1-76	Filed Original Papers rec;d from Mag. from The District of Columbia, Wash.D.C. Their No. 76-563 M (cr.) Record of Proceedings in Criminal Cases & Addendum State of Facts Appearance of Retained Atty. for Dft. District of Columbia Bail Agency Report Order dtd. 4/21/76 for Dfts. Releas on PRB with conditions by Mag. (mailed acknowledged receipt to Mag. Office Dist. of Columbia)	

EXCLUDABLE DELAY (a) (b) (c) (d)

FORM 30

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V. ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76 -10:30 A.M				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't Concession is made the order of this court and the Gov't is to forthwith comply therewith.......Owen J.(mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673 .Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76. proposed voir dire questions due 8-3-76.directly to Chambers, ...Owen J. (mailed notice)				
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulers, are denied. Certain dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered.....Owen J. (mailed notice)				
7-20-76	Filed transcript of record of proceedings, dated 5-6-76				
7-20-76	Filed transcript of record of proceedings, dated 5-7-76				
7-20-76	Filed transcript of record of proceedings, dated 5-20-76				
-20-76	[illegible] proceedings, dated 5-10-76				

Cont'd.

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

76 Cr. 324

Sidney Foster

Owen J. Dft.

Page #3

DATE	PROCEEDINGS
7-16-76	Filed Opinion #44768.All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts.denied.Various Dfts. move to dismiss indictment on grounds of preindictment delay,motions denied.Movants seeking order enjoing Gov't from cross examining them about past record,any movant seeking this issue , hearing will be held on 7/21/76 in Room 318.All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J.(mailed notice)
8-10-76	Filed Information of Prior Felony Conviction on 11-4-40
8-10-76	Filed Imformation of Prior Felony Conviction on 10-29-54.
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial begun - Interpreters Gustavo Hoffman & Amita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd - Gov't makes motion to remand Dfts. Sidney Foster, etal. decision reserved.
8-12-76	Jury Selection Cont'd Surpression cont'd & concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 of .concerning Dft. Intersome court finding: Tapes are original Unaltered version....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & contiuuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court...Owen J.(mm)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt.#1.

(Cont'd)

76 Cr. 324

Sidney Foster,etc.

DATE	PROCEEDINGS
	Judge Owen
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate, District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk. Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara,witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc., shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.....Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont
10-1-76	Trial Cont
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions.
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	Trial Cont'd
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Counts 23 is Dismissed by Court as to Dfts. Hightower & Foster. Gov't Summations begun......Owen J.
10-22-76	Summations cont'd
10-25-76	Summation Cont'd
10-26-76	Dft. Summation Cont'd
10-27-76	" " "
10-28-76	" " "
10-29-76	" " "
11-1-76	" " "
11-2-76	" " "
11-3-76	" " " & Concluded Gov't Rebuttal Begun.
11-4-76	Gov't Rebuttal Cont'd/
11-9-76	Filed CJA 20 Copy 2 approving payment to Victor J. Herwitz,22 E. 40th St.,NYC 10016 as dfts. counsel.....dtd. 9-27-76........Owen J.
11-9-76	Filed CJA 20.Copy 5 Appointing Victor J. Herwitz,22 E. 40th St.,NYC 10016 as dfts. counsel.....dtd. 9-27-76........Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - ORdered Sealed by the Court on this date........Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by theCourt on this date......Owen J.

(Cont'd)

76 Crim.324 Sidney Foster D

D. C. 110 Rev. Civil Docket Continuation

Page #5

DATE	PROCEEDINGS	Date Or Judgment
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Quests subm. to court by counsel in jury selection... Ordered Sealed by Court.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76 ....Owen J.	
11-12-76	P.S.I. Ordered for Each Dft. - Verdict - Sentencing date for all dfts. - Jan 10,1976 from 10:00 A.M. on - Dft. Ct. 1 - Guilty; Ct. 18 N/G; Bail Revoked - Remanded......Owen J.	
11-5-76	Trial Cont'd - Charge to Jury	
11-6-76	Charge Cont'd & Deliberations Begun'	
11-7-76	Deliberations Cont'd	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" "	
11-12-76	" " & Concluded.	
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed transcript of record of proceedings, dated Jun.1,21,24&Jul.1,2,12&Aug.19,11,12-1976.	
11-17-76	Filed transcript of record of proceedings, dated Aug. 10,11,12,13-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug.19,20,23,24,1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 25,26,27,30-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 31,1976	
11-17-76	Filed transcript of record of proceedings, dated Sep.1,2,3,7,8-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 9,10,13,14,15, 1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 16,17,20,21,22-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 23,24,27,28,29-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 30-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct.1,5,6,7,8-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct/19,21,22,25,26-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct.27,28,29-1976	
11-17676	Filed transcript of record of proceedings, dated Nov.1,2,3,4 - 1976	
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976	
1-24-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77. (mn)	
1-21-77	Filed Judgment & Commitment (Atty. Victor Herwitz Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of TEN (10) YEARS. Pur. to provisions of T.21, Sec. 841.U.S.Code.the dft. is placed on Special Parole for a term of THREE(3) YEARS to commence upon the expiration of his confinement......Owen J. Issued Commitment 1-31-77.	

ETTY OFFENSE PO ☐
AINOR OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel ☒ 0208 | 1 Office

JUDGE ~~MAGISTRATE~~ XXXXXX Assigned
0862 Disp./Sentence

U.S. vs. SAMPSON, JOSEPH a/k/a "Bootnose" Cl 1-31-77
(LAST, FIRST, MIDDLE)

☐ JUVENILE

Case Filed Mo. 04 Day 05
No. of Def's *33

76 | 0324 | 11
Yr. | Docket No. | Def.

U.S. MAG. CASE NO. ▶

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	24, 25

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied
AMT Set
$100,000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☐ Pers. Recog.
☐ PSA
conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or
U.S. Custody Began
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District

INDICTMENT X
Information ☐
4-5-76
Superseding ☐ Indict. Info ☐

ARRAIGNMENT
1st Plea 05-06-76
☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea
☐ NG ☐ G ☐ NOL

TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 X
Trial Ended 11-12-76

Disposition of Charges 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed:
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Govern'm'ts Motion

SENTENCE 1-31-77

MAGISTRATE

		DATE	INITIAL/NO.			INITIAL/NO.	OUTCOME:
Search Warrant	Issued			INITIAL APPEARANCE DATE ▶			☐ DISMISSED
	Return			PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING	Date Scheduled ▶		☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Summons	Issued				Date Held ▶		☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
	Served			☐ WAIVED ☐ NOT WAIVED	Tape Number		
Arrest Warrant Issued				☐ INTERVENING INDICTMENT			
COMPLAINT ▶							
OFFENSE (In Complaint)							

U.S. Attorney or Asst.

Daniel J. Beller
791-1992 207

ATTORNEYS Defense ☒ CJA ☐ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CO

1338

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
4-21-76	Bench Warrant issued.	
5-6-76	Dft. Joseph Sampson present (w/o atty) Court directs a N/G plea be entered. Bail is set for $100,000. Cash or surety......[illegible] Court directs dft. to appear at Pre Trial Conference before Judge Owen at 10 A.M. 5/7/76 Room 110. ....Wyatt J.	
5-20-76	Filed the following papers rec'd from Magistrates Office, District of Maryland. Docket Entry Sheet - 3/76-355M Bail Reform Act Form No. 1 Notice to Warden - Released on bond $100,000. Appearance Bond - $100,000.00 Unsecured - 2 Mag Temp. Commitment Financial Affdvt. Warrant of Removal on Indictment. To SDNY	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V. ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO	V. EXCLUDABLE DELAY			
	(DOCUMENT NO.)	Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
05-24-76	Filed Dfts. Notice of Motion to Dismiss Indictment. Ret.6/1/76				
050-24-76	Filed Dfts. Notice of Motion for Severance. Ret. 6/1/76				
05-24-76	Filed Dfts. Notice of Motion to Suppress Physical Evidence. Ret. 6/1/76.				
05-24-76	Filed Dfts. Notice of Motion for Bill of Particulars & Discovery.				
6-1-76	All Motions Rtn Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.				
6-3-76	Filed transcript of record of proceedings, dated 1-29-76 10:30 AM				
6-4-76	Surpression Hearing set for June 24th @ 1:30 P.M.....Owen J.				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76m	Filed Opinion #44578. The Gov/ts. Memorandum of Law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith.....Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacave and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held......Owen J				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-7-76	Surpression Hearing Held this date for dfts. Joseph Sampson & Lois Sampson - Attys. motions to surpress are denied...Owen J.				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76,p proposed voir dire questions due 8-3-76 directly to Chambers.. ....Owen J(mailed notice)	XO			

Cont'd

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

76 Cr. 324 Joseph Sampson Dft. 11

DATE	PROCEEDINGS PAGE #3 JUDGE OWEN
7-9-76	Filed Memo. End. on document filed 5-24-76. Motion Denied. See Minutes of 7-7-76. ....Owen J. (mailed
7-15-76	Filed Opinion #44760. All Motions of dfts. as moved for discovery & inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered....Owen J. (mailed notice)
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings, dated 5-7-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings, dated 5-10-76
7-16-76	Filed Opinion #44768. All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (maileda notice)
08-05-76	Filed Deft's. affidavit & notice of motion for an order granting Deft. 5 additional peremptory challenges in the selection of the jury, ret. 8-9-76.
08-05-76	Filed Deft's. proposed additional examination of prospective jurors.
08-10-76	Filed Memo. End. on Dfts. Motion Dtd. 8-5-76. Motion Denied. See Minutes of 8/9/76. ....Owen J. (mn)
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial Begun - Interpreters Gustavo Hoffman & Anita Zevallos sworn Jury Selection begun.
8-11-76	Jury Selection Cont'd Govt. maked motion to remand dfts. Joseph Sampson, et al. decision reserved.
8-12-76	Jury Selection Cont'd Surpression Cont'd & concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 of concerning Dft. Intersoma Court finding: Tapes are Original Unaltered version...Owen J.

(Cont'd)

DATE	PROCEEDINGS
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, X ~~is~~ is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file an final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court.....Owen J. (mm)
9-15-76	Trial Adj. to 9-15-76
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mm)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated...Owen J. (mm)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions.
10-13-76	Trial Cont'd Motions Cont'd.
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76.
10-21-76	Trial Cont'd - Gov't Summation begun.....Owen J.
10-22-76	Summation Cont'd.
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Concluded Govt. Rebuttal begun.
11-4-76	Gov't Rebuttal Cont'd.

(Cont'd)

DATE	PROCEEDINGS
11-9-76	Filed CJA Copy 2 Approving payment to Fred Cohn, 299 Bway, NYC 10012 as counsel for dft......dtd. 9-27-76.........Owen J.
11-9-76	Filed CJA Copy 5 Appointing counsel for dft., Fred Cohn, 299 Bway, NYC 10012 dtd. 9-27-76..........Owen J.
11-12-76	Filed One Sealed Envelope - Dtd. 10-6-76. Ordered Sealed by the Court on this date.......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date.....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in juyr selection..Ordered Sealed by the Court....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76- Ordered Sealed by the Court 10-6-76. ....Owen J.
11-[illegible]-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10, 1976 from 10:00 A.M. on .---Dft. - Ct. 1 Guilty; Ct. 20 Guilty $100,000.00 Bail cont'd......Owen J.
11-5-76	Trial Cont'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberations Begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed transcript of record of proceedings, dated Jun. 1, 21, 24, &Jul. 1, 2, 12&Aug. 10, 11, 12-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 10, 11, 12, 13-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 25, 26, 27, 30-1976
11-17=76	Filed transcript of record of proceedings, dated Aug. 31, 1976
11-17-76	[illegible] Sep. 1, 2, 3, 7, 8-1976
11-17-76	[illegible] dated Sep. 9, 10, 13, 14, 15-1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 16, 17, 20, 21, 22-1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 23, 24, 27, 28, 29-1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 30, 1976
11-17-76	[illegible] Oct. 1, 5, 6, 7, 8, 12-1976
11-17-76	[illegible] Oct. 19, 21, 22, 25, 26-1976
11-17-76	[illegible] Oct. 27, 28, 29-1976
11-17-76	[illegible] Nov. 1, 2, 3, 4 -1976
11-17-76	[illegible] Aug. 19, 20, 23, 24-1976.
11-23-76	Filed transcript of record of proceedings, dated 7-1-76
12-1-76	Filed CJA Copy 2 Approving payment to Dr. Harvey Greenberg, 320 W. 86th St., NYC 10024 for services......dtd. 11-16-76....Owen J.
12-1-76	Filed CJA 21 Copy 5 Appointing Dr. Harvey Greenberg, 320 W. 86th St. to examine dft. ....dtd. 11-16-76 ....Owen J.
12-2-76	Filed PRB from the District of Maryland in the Amt. of $25,000,00 Secured in xxxhx$2,500.00. Surety. in cash - Co-signed by Lonrie Broadwater Jr. 3309 Hayes St Glenorden Woods, Md.

DATE	PROCEEDINGS
12-17-76	Filed Dfts. Notice of Motion for Order directing the return of property seized on 4/21/76, etc. Ret. 1-6-77.
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976
1-28-77	Filed Dfts. Notice of Appeal from judgment dtd. 1-21-77. (mailed notice)
1-21-77	Filed Judgment & Commitment (Atty. Frederick Cohn Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of Counts 1 & 24 to run concurrently to each other. Pur. to T. 21, Sec. 841, U.S.Code, the dft. is placed on Speci Parole for a term of THREE (3) YEARS on Each of Counts 1 & 24 to run concurrently to each other & to commence upon his release from confinement. Bail is cont'd pending appeal.........Owen J. Issued Commitment 1-31-77.

TY OFFENSE PO ☐
NOR OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel x

JUDGE/XXXXXXE. Assigned 0862
0208 | 1
District | Office
Disp./Sentence

U.S. vs. SAMPSON, LOIS C1-21-77
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo. 04 Day 05
No. of Defs * 33

76 | 0324 | 12
Yr | Docket No | Def

U.S. MAG. CASE NO

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	22, 24, 26

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set $ 25,000
☐ Fugitive
☐ Pers. Recog
☐ PSA
Date
☐ Bail Not Made
☐ Status Changed (See Docket)

conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District

INDICTMENT X Information ☐ 4-5-76
Superseding Indict/Info ☐

ARRAIGNMENT
1st Plea ☐ NG ☐ G ☐ NOL
Final Plea ☐ NG ☐ G ☐ NOL
G. Plea W/Drawn

TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 X J ☐ N J
Trial Ended 11-12-76

Disposition of Charges 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed:
☐ On Government's Motion

SENTENCE 1-21-77
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING — Date Scheduled; Date Held
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
INITIAL/NO
OUTCOME
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.
Daniel J. Beller
791-1992 207

ATTORNEYS Defense: X CJA ☐ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

1237

* Show last names and suffix numbers of other defendants on same indictment/information.

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c)

DATE	PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
4-21-76	Bench Warrant Issued.	
5-6-76	Dft. Lois Sampson present (w/o atty) Court directs a N/G plea be entered. Bail set in the amt. of $25,000. Cash or Surety.....XXXXXX Court directs dft. to appear at Pre Trial Conference before Judge Owen at 10 A.M. Room 110...Wyatt.	
5-20-76	Filed the following papers rec'd from Magistrates Office, District of Maryland. Docket Entry Sheet Warrant of Arrest - Unexecuted Appearance Bond - PRB in the amt. of $25,000. Secured by $2,500. Notice to Warden - Dft. Released on bond of $25,000. Warrant of Removal on Indictment Bail Reform Act Form No. 1. Mag. Temp. Commitment Financial Affdvt.	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
6-1-76	Filed Dfts. Notice of Motion for a pretrial order, restraing & [illegible] enjoining the U.S.ATty. SDNY from cross examining or interrogating dft. of prior criminal record, etc. Ret. 6-1-76.				
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76-10:30AM				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)				
6-21-76	Filed Dfts. Notice of Motion for Order Suppressing any evidence as indicated. Ret. 6/24/76.				
6-21-76	Filed Dfts. Notice of Motion for an order for separate trial and deverance. Ret. 6/24/76.				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/u/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacave and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied. OWEN.J.m/u.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-7-76	Surpression Hearing Held this date for dfts. Joseph Sampson & Lois Sampson - Attys. motions to surpress are denied....Owen J.				
7-9-76	Filed Memo. End. on motion dtd. 6-21-76. Motion Denied. See minutes of 7-7-76.....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers. ....Owen J. (mailed notice)				

(Cont'd)

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

LOIS SAMPSON

DFT. 12

Page #3

DATE	PROCEEDINGS
7-15-76	Filed Opinion #44760. All Motions of dfts. as moved for discovery & Inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered....Owen J. (mailed notice)
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings, dated 5-7-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings, dated 5-10-76
7-16-76	Filed Opinion #44768.All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose identity of cooperating dfts.denied.Various Dfts. move to dismiss indictment on grounds of preindictment delay,motions denied.Movants seeking order enjoing Gov't from cross examining them about past record,any movant seeking this issue , hearing will be held on 7/21/76 in Room 318.All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J.(mailedn notice)
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial begun - Interpretors Gustavo Hoffman & Anita Zevallos Sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd - Govt. maked motion to remand defts. Lois Sampson,et al. decision reserved.
8-12-76	Jury Selection Cont'd Surpression Cont'd & concluded.
8-18-76	Trial Cont'd - Openings Cont'd.
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 Concerning Dft. Intersome Court finding: Tapes are Original Unaltered Version......Owen J.(
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court....Owen J.(mn)

D. C. 109 Criminal Continuation Sheet

DATE	PROCEEDINGS
	Judge Owen
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate, District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76 (mn)
10-8-76	Filed Gov'ts Application for an order of Imunity as to Peter J. Fiumara, witness
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated....Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - GOv'ts Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-20-76.
10-21-76	Trial Cont'd - Gov't Summation begun...Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Conclued Govt. Rebuttal begun.
11-4-76	Gov't Rebuttal Cont'd
11-9-76	Filed CJA 20 Copy 2 Approving payment to Hudson Reid, 70 Lafayette St., NYC 10013 as dfts. counsel .....dtd. 9-21-76.........Owen J.
11-9-76	Filed CJA 20 Copy 5 Appointment Hudson Reid, 70 Lafayette St., NYC 10013 as dfts counsel ....dtd, 9-21-76......Owen J.
	(Cont'd)

76 Cr. 324 Lois Sampson Dft.

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order Judgment N
-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76..Questions subm. to counrt by counsel in jury selection...Ordered Sealed by the Court.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ....Owen J.	
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan 10, 1976 from 10:00 Am. on....Dft. Ct. 1 Guilty;Ct. 19 Guilty; Ct. 20 Guilty; Ct. 21 Guilt; Bail increased from $25,000.00 to $50,000.00 - Dft. given one wk. to post new bail.......Owen J.	
11-5-76	Trial Cont'd - Charge to Jury.	
11-6-76	Charge Cont'd & Delibeuations Begun	
11-7-76	Deliberations Cont'd	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" "	
11-12-76	" " & Concluded.	
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed transcript of record of proceedings, dated Jun.1,21,24&Jul1,2,12&Aug.10,11,12-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug.10,11,12,13-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug.19,20,23,24-1976	
11-17-76	Filed [illegible] record of [illegible], dated Aug.25,26,27,30-1976	
11-17-76	[illegible] dated Aug.31,1976	
11-17-76	[illegible] Sep.1,2,3,7,8-1976	
11-17-76	[illegible] Sep.9,10,13,14,15-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 16,17,20,21,22-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 23,24,27,28,29-1976	
11-17-76	[illegible], dated Sep. 30,1976	
11-17-76	[illegible] Oct.1,5,6,7,8,12-1976	
11-17-76	[illegible] Oct. 19,21,22,25,26-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct. 27,28,29-1976	
11-17-76	Filed transcript of record of proceedings, dated Nov. 1,2,3,4-1986	
11-23-76	Filed transcript of record of proceedings, dated 9-7-76	
11-18-76	Filed PRB in the Amt. of $25,000. oo Secured in cash/or $2,500.00 Surety. (From the District of Maryland) XXXXXXXXXXXX	
2-8-76	Filed PRB from the U.S. District Court for the District of Maryland in the sum of $25,000.00 in cash or $25,000.00 Surety, Signed & acknowledged by the Magistrate for the District of Maryland, George E Burgess dtd. 12-1-76.	
12-23-76	Filed/copy of Amended Appearance Bond for 11/18/76 (PRB in the Amt. of $25,000. in cash or surety /or $2,500.00 Surety. Dft. remains on $25,000.00 Bond Written on 4/29/76. from the District of Maryland)	
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976	

DATE	PROCEEDINGS	Date Order Judgment N
-25-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77.(mailed notice)	
1-21-77	Filed Judgment & Commitment (AttyHudson Reid Present) The Dft. is hereby committed to the custody of the atty. gen.or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on Each of Counts 1,22,24,& 26 to run concurrently to each other. Pur. to T. 21, Sec. 841, U.S Code, the dft. is placed on Special Parole for a term of THREE (3) YEARS, on Each of Counts 1, 22,24 & 26 to run concurrently to each other & to commence upon the expiration of her confinement. Bail is cont'd pending appeal. Issued Commitment 1-31-77.	

TTY OFFENSE PO ☐
NOR OFFENSE MO ☐
ISDEMEANOR Mis ☐
FELONY Fel ☒ 0208 1

JUDGEXXXXXX Assigned 0862
Disp./Sentence

U.S. vs. SCHENNAULT, YVONNE ALVAREZ Cl 1-21-77
(LAST, FIRST, MIDDLE)
JUVENILE ☐

Case Filed Mo. Day: 04 05
No. of Defs: * 33

Yr	Docket No	Def
76	0324	15

U.S. MAG CASE NO

OFFENSES CHARGED

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. Cocaine II.	13, 15

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied AMT Set ☐ Fugitive ☐ Pers Recog ☐ PSA
$ 000
Date
conditions: ☐ 10% Deposit ☐ Surety Bond ☐ Collateral ☐ 3rd Prty Cust ☐ Other
☐ Bail Not Made
☐ Status Changed (See Docket)

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began: 4/28/76
Summons Served
First Appearance
High Risk Date
INDICTMENT X Information ☐ 4-15-76
Indict Waived ☐
In Charging District
Superseding ☐ Indict/Info ☐
ARRAIGNMENT
1st Plea ☐ NG ☐ G ☐ NOL
☐ G. Plea W/Drawn
Final Plea ☐ NG ☐ G ☐ NOL
Trial Set For 7/19/76
TRIAL
Voir Dire ☐
Trial Began ☐ J ☐ N ☐ J
Trial Ended
Disposition of Charges
SENTENCE
☐ Convicted ☐ On All Charges
☐ Acquitted ☐ On Lesser Offense(s)
☐ Dismissed: ☐ WOP ☐ WP
☐ On Government's Motion

MAGISTRATE

	DATE	INITIAL/NO.
Search Warrant Issued		
Search Warrant Return		
Summons Issued		
Summons Served		
Arrest Warrant Issued		
COMPLAINT		
OFFENSE (In Complaint)		

INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled; Date Held
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO
Tape Number
OUTCOME: ☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

ATTORNEYS Defense ☐ CJA ☒ Rct. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

U.S. Attorney or Asst.
Daniel J. Beller
791-1992 207

Harold Davis, 116 John Street, NYC 10038 - 962 1111

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE	(DOCUMENT NO.) PROCEEDINGS
4-5-76	Indictment filed. Lasker, J.
	Indictment ordered sealed. Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued. Brieant, J.
	Indictment ordered rescaled. Brieant, J.
4-21-76	Indictment ordered unsealed.
5/7/76	Dft. Schennault Yvonne Alvarez (Atty. Present Royal Martin) Pleads N/G 10 Days Motions. Ordered Fingerprinted & Photographed.....Trial Date Set for X July 19th.....[illegible] Owen J.
5-20-76	Filed the following papers rec'd from Mag. Office Northern District of Illinois- Eastern Division Docket Entry Sheet& Indictment Warrant of Arrest - executed 4/28/76 Notice of Appearance Appearance Bond - Mag. Temp. Commitment Notice of Removal
6-3-76	Filed transcript of record of proceedings, dated 4-29-76 - 10:30 AM

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section # (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
5-21-76	Filed Certificate of mailing by Carla J. Connor of Motion for leave to file appearance, Appearance, Etc. on 5-20-76.				
5-21-76	Filed Dfts. Motion for leave to file Appearance by Counsel Royal B.Martin Jr. of Harris Burman & Silets, 7 Sourht Dearborn Chicago Illinois, Tel. 236 2994 (312).				
5-21-76	Filed Appearance by Royal B.Martin,Jr. % Harris Burman & Silets, 7 South Dearborn, Chicago, Illinois 60603 , Tel. (312)236 2994.				
5-21-76	Filed Dfts. Motion to Adopt.				
5-21-76	Filed Dfts. Motion to dismiss the indictment.				
5-21-76	Filed Dfts. Motion to Suppress.				
5-21-76	Filed Dfts. Request for Notice of Gov'ts Intention to use evidence.				
5-21-76	Filed Dfts. Motion for a Bill of Particulars.				
5-21-76	Filed Dfts. Memorandum in support of Dfts. Motion for a Bill of Particulars.				
5-21-76	Filed Dfts. Motion to Strike Dfts. middle name Alvarez from indictment.				
5-21-76	Filed Dfts. Motion for inspection & Copying Pur. to Rule 16, FRCrP.				
5-21-76	Filed Dfts. Memorandum in support of motion for copying & inspection Pur. to rule 16 FRCrP.				
5-21-76	Filed Dfts. Memorandum in support of Motion for Production of Favorable evidence.				
5-21-76	Filed Dfts. Motion to disclose Electronic Surveillance.				
5-21-76	Filed Dfts. Motion for a list of Gov't Witnesses.				
5-21-76	Filed Dfts. Memorandum in support of Dfts. Motion for a list of Gov't Witnesses.				
5-21-76	Filed Dfts. Motion for a Severance.				
5-21-76	Filed Dfts. Memorandum in support of motion for a severance.				
5-21-76	Filed Dfts. Motion to ;inspect Grand Jury Minutes.				
5-21-76	Filed Dfts. Memorandum in support of Dfts. motion to inspect Grand Jury Minutes. Cont'd.				

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

DATE	PROCEEDINGS
5-21-76	Filed Dfts. Motion for Disclosure of Favorable Evidence.
6-1-76	Filed Notice of Appearance by Harold Davis, 116 John Street, NYC 10038 - 962 1111.
6-2-76	Filed Dfts. Appendix in support of Motion of Dft. Yvonne Schennault to dismiss the indictment.
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.
6-3-76	Filed transcript of record of proceedings dated 4-29-76 - 10:30 AM
6-15-76	Filed Gov'ts. Bill of Particulars.
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)
06-24-76	Filed Consent Order modifying Deft's. Appearance bond to permit travel to all points within the U.S. upon accompaniment of Royal D. Martin Jr.,.......Owen,J.
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are collectively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.
6-21-76	Surpression Held.....Owen J.
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)
7-9-76	Filed Memorandum Order that Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers.....Owen J. (mailed notice)
7-15-76	Filed Memo. End. on Motion dtd. 5-21-76. Motion to suppress denied without prejudice to its renewal at trial as indicated....Owen J.(mailed notice)
7-15-76	Filed Memo. End. on Pltffs. motion dtd. 7-15-76. Motion Granted. Owen J. (mailed notice)
7-15-76	Filed Pltffs. Notice of Motion for an order amending Count 15 to read April 1973 instead of April 1972. Ret. 6-29-76.

(Cont'd)

DATE	PROCEEDINGS
7-15-76	Filed Opinion #44760. All Motions of dfts. as moved for discovery & inspection & bill of particulars, are denied. Certain dfts. moved for psychiatric information as indicated. The Foregoing is so Ordered......Owen J. (mailed notice)
7-20-76	Filed transcript of record of proceedings dated 5-6-76
7-20-76	[illegible] of [illegible] dated 5-7-76
7-20-76	[illegible] of record of proceedings dated 5-20-76
7-20-76	Filed [illegible] of proceedings dated 5-10-76
7-16-76	Filed Opinion #44763. All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (mailedn notice)
08-04-76	Filed Deft's. proposed questions for voir dire examination of jury panel.
8-9-76	All Counsel present for P.T.C.
8-10-76	Trial begun - Interpreters Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun. S
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd. Surpression Cont'd & Concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 of Concerning Dft. Intersome Court Finding: Tapes are original Unaltered Version......Owen J. XX
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court...Owen J. (mn)

(Cont'd)

r. 324 Yvonne A. Schennalt Owen J. Page #5 Dft.1

DATE	PROCEEDINGS
	~~Page #5~~
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by the Alt.#1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of immuntiy as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated....Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions.
10-13-76	Trial Cont'd - Motion Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76.
10-21-76	Trial Cont'd - Gov't Summation Begun.....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & concluded Govt. Rebuttal begun.
11-4-76	Gov't Rebuttal Cont'd
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date....Owen J.
11-12-76	Filed One Sealed Envelope - Dtd. 8-30-76. Ordered Sealed by the Court on this date.....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date.....Owen J.

(Cont'd)

D. C. 109 Criminal Continuation Sheet

DATE	PROCEEDINGS
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection....Ordered Sealed by the Court......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection...Ordered Sealed by theCourt.....Owen J.
11-12-76	Filed One Envelope Sealed .....Dtd. 11-15-76, Ordered Sealed by the Court 10-6-76. ....Owen J.
11-12-76	P.S.I. Ordered for Each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1976 from 10:00 A.M. on --Dft. - Ct. 1 - Guilty: Ct. 13 - Guilty:Ct. 14 N/G: Bail Revoked - Dft. Remanded.......Owen J.
11-5-76	Trial Cont'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberations Begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	"
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed transcript of record of proceedings, dated Jun.1,21,24&Jul.1,2,12&Aug.10,11,12-1976
11-17-76	Filed transcript of record of proceedings dated Aug.10,11,12,13-1976
11-17-76	Filed [illegible] dated Aug. 19,20,23,24-1976
11-17-76	[illegible] Aug.25,26,27,30-1976
11-17-76	[illegible] Aug.31,1976
11-17-76	[illegible] Sep.1,2,3,7,8-1976
11-17-76	Filed transcript of record of proceedings dated Sep. 9,10,13,14,15-1976
11-17-76	Filed transcript of record of proceedings dated Sep. 16,17,20,21,22-1976
11-17-76	[illegible] dated Sep. 23,24,27,28,29-1976
11-17-76	Filed [illegible] Sep. 30,1976
11-17-76	[illegible] Oct.1,5,6,7,812-1976
11-17-76	Filed transcript of record of proceedings, dated Oct. 19,21,22,25,26-1976
11-17-76	Filed [illegible] dated Oct. 27,28,29-1976
11-17-76	Filed [illegible] Nov. 1,2,3,4-1976
11-17-76	[illegible]
12-2-76	Filed Dfts. Motion for reinstatement of Bail.
12-2-76	Deft. Schenault present (from MCC) with Atty. Royal Martin for Bail Applic. is denied.....Owen J.
12-15-76	Filed Dfts. Motion for a new trial.
12-23-76	Filed [illegible] dated 11-5,6,7,8,9,10,11,12-1976
1-28-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77.(mailed notice)
1-21-77	Filed Judgment & Commitment (Atty Royal Martin Present)#72,331 The Dft. is hereby committed to the custody of the atty.gen. or his authorized representative for imprisonment for a period Ct. 13- FIFTEEN(15)YEARS and a $25,000.00 fine.Ct.1 FIVE YEARS (5) and a $25,000.00 fine. The above prison term is to run Consecutively to each other for a total prison term of TWENTY YEARS. The fine imposedis Cumulative for a total proson term of TWENTY (20) YEARS. The fine imposed is Cumulative for a total fine of $50,000. Pur. to the Provisions of T 21,Sec.841,U.S.Code,the dft. is placed o Special Parole for a term of THREE (3) YEARS on each of Cts. I & 13 to run Consecutive for a total of S.P. term of Six(6)Years,to commence upon the expiration of her confin ....Owen J.

Issued Commitment 1-31-77.

Cl. 1-21-77

PETTY OFFENSE Po ☐
MINOR OFFENSE Mo ☐
MISDEMEANOR Mis ☐
FELONY Fel x

JUDGE ~~MAGISTRATE~~ Assigned XXXXXXX
0208 District 1 Office
0862
Disp./Sentence

U.S. vs. WILSON, DON a/k/a "Don from South Carolina"
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo. Day 04 05
No. of Dfts * 33

76 Yr. 0324 Docket No. 18 Dft.

U.S. MAG. CASE NO. ▶

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	18

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set $ 15,000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☐ Pers. Recog.
☐ PSA
Conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust.
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began 4/22/76
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District
INDICTMENT x Information ☐ 4-5-76
Superseding Indict/Info ☐
ARRAIGNMENT
1st Plea ☐ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea ☐ NG ☐ G ☐ NOL
TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 ☒ J ☐ N
Trial Ended 11-12-76
Disposition of Charges 11-12-76
SENTENCE 1-21-77
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Government's Motion

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING
Date Scheduled ▶
Date Held ▶
INITIAL/NO.
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.
Daniel J. Beller
791-1992
207

ATTORNEYS Defense: ☐ CJA ☐ Ret. ☐ Waived ☐ Self ☐ None ☐ Other ☐ PD ☐ CD
Theodore Krieger, 401 Bway, NYC.
Tel. WO 6 5911

1453

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

DATE	(DOCUMENT NO.) PROCEEDINGS	EXCLUDABLE DELAY (a) (b) (c) (d)
4-5-76	Indictment filed. Lasker, J.	
	Indictment ordered sealed. Lasker, J.	
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed. Brieant, J.	
4-21-76	Indictment ordered unsealed. Brieant, J.	
5-10-76	Dft. Don Wilson Appears on Writ Court Enters N/G plea. Counsel to be appointed. Bail $150.000.00 Cash or Surety. Dft. Remanded.......Owen J.	
5-10-76	Issued Remand.	
5-11-76	Filed Notice of Appearance for dft. Theodore Krieger, 401 Bway, NYC Wo.6 5911.	
5-19-76	Filed letter from Magistrate Cambrell from U.S. District Court District of South Carolina, Columbus, 292002 dtd. 4/23/76 Re. Dft. was arrested on 4/22/76/	
6-1-76	All Motions Rtn. Today Jun 1st Are ADjourned to Jun 4th @2:00 P.M.	
6-3-76	Filed transcript of record of proceedings dated 4-29-76-10:30 A.M	
6-15-76	Filed Gov'ts. Bill of Particulars.	

A-50

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V. ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
6-16-76	Filed Opinion #44578. The Gov't Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)				
-17-76	Dft. Don Wilson (Atty. Theodore Krieger Present) & makes application for bail reduction. Application Granted as follows- Bail Now $5,000.00 Cash Put up by Brother & Proof by Brother that he has $5,000.00 Secured & 50,000.00 PRB Co-Signed by Brother Bail limits Extended to include Washington D.C. with provision that dft. live with Brother........Owen J.				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourne to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers. .....Owen J. (mailed notice)				
7-13-76	Dft. Don Wilson appears (Atty. Thoedore Kreiger Present)For Bail Application. Bail Now Set as Follows - $5,000.00 Cash posted by Brother,$5,000.00 Collatural Posted by Brother; $15,000.00 PRB Co-Signed by Brother;$50,000.00 PRB Secured by Quick Claim Deed to all land Owned by Dft. in South Carolina........Owen J.				
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulars, are denied. Certain dfts. moved for paychiartric information as indicated The Foregoing is so Ordered......Owen J. (mailed notice)				
7-20-76	Filed transcript of record of proceedings, dated 5-6-76				
7-20-76	Filed transcript of record of proceedings, dated 5-7-76				
7-30-76	Filed transcript of record of proceedings, dated 5-20-76				
7-30-76	Filed transcript of record of proceedings, dated 5-10-76				

FINE AND RESTITUTION PAYMENTS Cont'd.

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

Cr. 324 Don Wilson Page #3 Dft. 1

DATE	PROCEEDINGS
	Owen J.
7-16-76	Filed Opinion #44768. All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (maileda notice)
7-23-76	Filed transcript of record of proceedings dated 5-11-76
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial begun. Interpretors. Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd Surpression Cont'd & Concluded.
9-10-76	Filed Warrant for Arrest- executed on 4/22/76.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 of concerning dft. Intersene Court finding: Tapes are Original Unaltered Version....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court.....Owen J. (mn)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd

(Cont'd)

D. C. 100 Criminal Continuation Sheet

DATE	PROCEEDINGS
9-20-76	Trial Cont'd Juror #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
-23-76	Filed True Copy ofUSCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76 (mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony,etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.....Owen J. (mn)
10-18-76	Trial Cont'd
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Gov't Summation begun.....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" " & Concluded Gov'ts Rebuttal begun.
11-3-76	
11-4-76	Gov't Rebuttal Cont'd.
11-9-76	Filed CJA 20 Copy 2 Approving payment to Theodore Krieger,401 Bway,NYC 10013 as cousel for dft......dtd. 9-27-76........Owen J.
11-9-76	Filed CJA 20 Copy 5 Appointing Theodore Krieger,401 Bway,NYC10013 as counsel for dft........9-27-76.........Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date.......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date.......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court this date......Owen J.
11-12-76	Filed One Sealed Envelope dtd. 8-13-76. Questions subm. to the Court by counsel in jury selection....Ordered Sealed by the Court.....Owen J.
11-12-76	Filed One Envelope Sealed - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ......Owen J.
11-12-76	P.S.I. Orderedfor each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1976 from 10:00 A.M. on --- Dft. Ct. 1 - Guilty;- Bail Revoked -Dft. Remanded. ....Owen J.
11-5-76	Trial Cont'd - Charge to Jury
11-6-76	Charge Cont'd & Deliberations Begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.

(cont'd)

DATE	PROCEEDINGS
	Owen J.
11-17-76	Filed transcript of record of proceedings, dated Jun.1,21,24& Jul.1,2,12&Aug.10,11,12-1976
11-17-76	Filed transcript of record of proceedings, dated Aug.10,11,12,13,1976
1-17-76	Filed transcript of record of proceedings, dated Aug. 19,20,23,24-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 25,26,27,30-1976
11-17-76	[illegible] Aug.31,1976
11-17-76	[illegible] Sep. 1,2,3,7,8--1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 9,10,13,14,15-1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 16,17,20,21,22-1976
11-17-76	Filed transcript of record of proceedings, dated Sep.23,24,27,28,29-1976
11-17-76	Filed transcript of record of proceedings, dated Sep.30,1976
11-17-76	Filed transcript of record of proceedings, dated Oct. 1,5,6,7,8,12-1976
11-17-76	Filed transcript of record of proceedings, dated Oct.19,21,22,25,26-1976
11-17-76	Filed transcript of record of proceedings, dated Oct.27,28,29-1976
11-17-76	Filed transcript of record of proceedings, dated Nov. 1,2,3,4-1976
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976
1-27-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77.(mailed notice)
1-21-77	Filed Judgment & Commitment (Atty. Theodore Krieger Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of EIGHT (8) YEARS,on Each of Counts 1 & 18 to run concurrently to each other. Pur. to T.21,Sec. 841, U.S.Code,the dft. is placed on Special Parole for a term of THREE (3) YEARS on each of counts 1 & 18, to run concurrently to each other & to commence upon the expiration of his confinement. ....Owen J.
	Issued Commitment 1-31-77.
2-1-77	Filed the following papers rec'd from Mag. Office. Docket Sheet Entry - Warrant of Removal on Indictment from the District of Carolina.
2-8-77	Filed True Copy of J&C with marshals ret. dft. delivered to Warden,MCC,NY on 1-21-77.

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs

YVONNE ALVAREZ SCHENNAULT

76	Cr. 324	
Yr.	Docket No.	Def

DATE	PROCEEDINGS (continued) (Document No.) Page #7
2-8-77	Filed True Copy of J&C with marshals ret. Dft.delivered to warden,MCC,NY on 1-21-77.
2-24-77	Filed letter to Judge Owen dtd. 1-26-77 from Frank A. Lopez dfts. counsel.
2-25-77	Filed Memo. End. on motion dtd.12/15/76.Motion Denied.... Owen J. (mailed notice)
3-2-77	Filed transcript of record of proceedings, dated 12-2-76
3-2-77	Filed transcript of record of proceedings, dated 1-21-77

V. EXCLUDABLE DELAY

(a)	(b)	(c)	(d)

Interval | Start Date | Ltr.

C 1-21-77

TY OFFENSE PO ☐
IOR OFFENSE MO ☐
ISDEMEANOR Mis ☐
FELONY Fel ☒ 0208 1 Off.

JUDGE/XXXXXXX signed 0862
Disp./Sentence

U.S. vs.

LAWS, JAMES a/k/a
"Tobe the Robe"
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo Day: 04 05
No. of Def's: * 33

76 0324 19
Yr Docket No. Def

U.S. MAG. CASE NO. ▶ 76-510

OFFENSES CHARGED

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	30

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set $ 35,000
☐ Fugitive
☒ Pers Recog
☐ PSA
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody began: 4/21/76
Summons Served
First Appearance
High Risk Date
Indict. Waived
In Charging District

INDICTMENT ☒
Information ☐: 4-5-76
☐ Superseding ☐ Indict/Info ☐

ARRAIGNMENT
1st Plea: 4-29-76 ☒ NG ☐ G ☐ NOL
Final Plea ☐ NG ☐ G ☐ NOL
Trial Set For
G. Plea W/Drawn

TRIAL
Voir Dire ☐
Trial Began: 8-10-76 ☒ N ☐ J
Trial Ended: 11-12-76

Disposition of Charges: 11-12-76
SENTENCE: 1-21-77
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Governm'ts Motion

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons*	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled ▶ Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
INITIAL/NO.
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.

Daniel J. Beller
791-1992 207

ATTORNEYS Defense ☐ CJA ☒ Ret ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

~~James Evan Siff, 401 Bway, NYC~~ Howard Diller
~~Tel. 226-5453~~
-1120

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	Brieant, J.
4-29-76	Deft. (Atty present) enters plea of not guilty. Bail continued at $35,000. Case assigned to Judge Owen. Atty. directed to report to chambers immediately.	MacMahon, J.
5-5-76	Filed the following papers rec'd from Mag. Bernikow (Mag.# 76-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Notice of Appearance by James Evan Siff, 401 Bway, NYC 10013, Tel. 226 5453 Warrant of Arrest - executed 4/21/76 Appearance Bond - PRB in the Amt. of $35,000.00 surety Bond with Marine Midland Ins. Co.	
6-5-76	Filed transcript of record of proceedings, dated 4-29-76 - 10:30 A.M.	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
6-1-76	All Motions Rtn. Today are Adjourned to Jun 6th @2:00 P.M				
6-15-76	Filed Gov'ts Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov;ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacova and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied. OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers. ......Owen J. (mailed notice)				
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulars, are denied. Certain dfts. moved for psychiartric information as indicated. The foregoing is so Ordered.....Owen J. (mailed notice)				
7-20-76	Filed transcript of record of proceedings dated 5-7-76				
7-20-76	Filed transcript of record of proceedings dated 5-6-76				
7-20-76	Filed transcript of record of proceedings dated 5-20-76				
7-20-76	Filed transcript of record of proceedings dated 5-10-76				

Cont'd

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

324 James Laws Dft. 19

Page #3

DATE	PROCEEDINGS Owen J.
7-16-76	Filed Opinion #44763. All motions seeking disclosure of Gov't witnesses are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue , hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (mailedn notice)
8-10-76	Filed Information of Prior Felony Conviction on 6-6-57.
8-9-76	All Counsel Present for P.T.C
8-10-76	Trial begun. Interpretors. Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd Surpression Cont'd & Concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - HearingHeld concerning Authority of Tape 3505-05 of concerning dft. intersome court finding: Tapes are Original Unaltered Version......Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel my file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court.....Owen J. (mn)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd

DATE	PROCEEDINGS
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76 (mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, withess.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated..This Order shall not take effect until Peter J. Fiumara refuses to ;testify as indicated......Owen J. (mn)
9-23-76	Trial Cont'd
9-28-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-86	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - GOV"T Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	"
10-19-76	"
10-20-76	" Adj. to 10-21-76
10-21-76	Trial Cont'd - Gov't Summation begun.....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Concluded _ Gov't Rebuttal begun.
11-4-76	Govts Rebuttal Cont'd
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered sealed by the Court this date......Owen J..
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection....Ordered Sealed by the Court.......Owen J.
11-12-76	Filed One Envelope Sealed - dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. ......Owen J.
11-12-76	P.S.I. Ordered for each dft. - Verdict = Sentencing date for all dfts. Jan 10,1976 from 10:00 A.M. on ----Dft. Ct. 1 Guilty:Ct. 24 Guilty: Bail Increased to $50,000.00 surety Bond - Until Nxt. Fri to New Bail.......Owen J.

Cr. 324 James Laws. Dft. 1

Page #5

DATE	PROCEEDINGS
11-5-76	Trial Cont'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberations begun.
11-7-76	Deliberations Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redatted Indictment.
11-17-76	Filed transcript of record of proceedings, dated Jun 1,21,24&Jul 1,2,12&Aug.10,11,12-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 10,11,12,13-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 19,20,23,24-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 25,26,27,30-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 31,1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 1,2,3,7,8,1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 9,10,13,14,15-1976
11-17-76	Filed transcript of record of proceedings, dated Sep. 16,17,20,21,22-1976
11-17-76	Filed transcript of record of proceedings, dated Sep.23,24,27,28,29-1976
11-17-76	Filed transcript of record of proceedings, dated Sep30 ,1976
11-17-76	Filed transcript of record of proceedings, dated Oct.1,5,6,7,8,12-1976
11-17-76	Filed transcript of record of proceedings, dated Oct.19,21,22,25,26-1976
11-17-75	Filed transcript of record of proceedings, dated Oct.27,28,29-1976
11-17-76	Filed transcript of record of proceedings, dated Nov. 1,2,3,4-1976
11-17-76	Filed transcript of record of proceedings,
11-17-76	Filed PRB in the amt. of $15,000. EM-Secured by Midland Ins.Co. 1 State St.Plaza NYC 10004.
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12, 1976
1-21-77	Filed Judgment & Commitment (Atty. Howard J.Diller Present; The Dft. is hereby committed to the custody of the Atty. Gen. or his authorized representative for imprisonment for a period of TEN(10) YEAS on Each of Counts 1 & 30 to run Concurrently to each other. Pur. to the provisionsu of T21:Sec. 841 U.S.Code, the dft. is placed on Special Parole for a term of THREE (3) YEARS, on each of Counts 1 & 30, to run concurrenly to each other & to commence upon the expiration of his confinement. Bail is revoked & the dft. is remanded.....Owen J. Issued Commitment 1-31-77
1-31-77	Filed Dfts. Notice of Appeal from the judgment dtd. 1-21-77. (mn)
2-8-77	Filed True Copy of J&C with marshals ret. Dft. delivered to Warden, MCC, NY on 1-21-77.
3-2-77	Filed transcript of record of proceedings, dated 8-9-76

cr. 1-21-77

ITY OFFENSE PO ☐
INOR OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE XXXXXX Assigned 0862
Disp./Sentence
0208 1 Office

U.S. vs DAVIS, TOMMY a/k/a "Bipty"
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo Day: 04 05
No. of Def's: *33

76 0324 20
Yr Docket No. Def

U.S. MAG CASE NO. ▶ 76-510

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr, & possess. of Cocaine II	28,29

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied AMT Set $,000
☐ Fugitive
☐ Pers. Recog.
☐ PSA
Date
☐ Ball Not Made
☐ Status Changed (See Docket)
conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began: 4/21/76
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District
INDICTMENT ☒ Information ☐: 4-5-76
Superseding ☐ Indict/Info ☐
ARRAIGNMENT 1st Plea: 4-29-76 ☒ NG ☐ G ☐ NOL
Final Plea ☐ NG ☐ G ☐ NOL
G. Plea W/Drawn
Trial Set For
TRIAL Voir Dire ☐
Trial Began: 8-10-76 ☒ J ☐ N
Trial Ended: 11-12-76
Disposition of Charges: 11-12-76
SENTENCE: 1-21-77
☐ Convicted ☐ Acquitted ☐ Dismissed
☐ On All Charges ☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Government's Motion

MAGISTRATE

	DATE	INITIAL/NO.		INITIAL/NO.	OUTCOME:
Search Warrant Issued			INITIAL APPEARANCE DATE ▶		☐ DISMISSED
Search Warrant Return			PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled ▶		☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Summons Issued			Date Held ▶		
Summons Served			☐ WAIVED ☐ NOT WAIVED	Tape Number	☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
Arrest Warrant Issued			☐ INTERVENING INDICTMENT		
COMPLAINT ▶					
OFFENSE (In Complaint)					

U.S. Attorney or Asst.
Daniel J. Beller
791-1992
207

ATTORNEYS Defense ☒ CJA ☐ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

~~Gilbert Epstein, 100 Church St., NYC 10017 262-1564~~ Nicolas Figueroa -7-5-76 Subst.

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

DATE	(DOCUMENT NO.) PROCEEDINGS	EXCLUDABLE DELAY (a)	(b)	(c)	(d)
4-5-76	Indictment filed. Lasker, J.				
	Indictment ordered sealed. Lasker, J.				
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.				
	Indictment ordered resealed. Brieant, J.				
4-21-76	Indictment ordered unsealed. Brieant, J.				
4-29-76	Deft. (Atty. present) enters plea of not guilty. Case assigned to Judge Owen. Atty. directed to report to chambers immediately. MacMahon, J.				
5-4-76	Filed Dfts. Notice of Motion for an order directing certain discovery, etc. & requiring Gov't to produce & deliver all evidence to dft. as indicated, & granting bill of particulars, & further relief. Ret. 594-76.				
5-5-76	Filed the following papers rec'd from Mag. Bernikow. (Mag. #76-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Financial Affdvt. Warrant of Arrest - executed 4/21/76. CJA Form 20 Copy 5 - Appointing Gilbert Epstein, 100 Church St., NYC 10017 as dft. atty. & Notice of Appearance by Atty.				

DC 111 AO 256

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
5-21-76	Filed Dfts. Notice of Motion to sever.Ret. 6/1/76 @ 10:00 a.m.				
5-24-76	Filed Dfts. Notice of Motion to Suppress Evidence. Ret. 6/1/76.				
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00P.M.				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76 - 10:30 A.M				
6-15-76	Filed Govts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters witth prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith.....Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
06-24-76	Filed Deft's. affidavit & notice of motion for suppression of evidence.				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-5-76	Dft. Tommy Davis - Appointment of New Counsel - Gilbert Epstein is substituted by Nicolas Figueroa........Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed doir dire questions due 8-3-76 directly to Chambers. ....Owen J. (mailed notice)				
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulors, are denied. Certain Dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered....Owen J. (mailed notice)				

Cont'd/

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

DATE	PROCEEDINGS
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings, dated 5-7-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings, dated 5-10-76
7-16-75	Filed Opinion #44768. All motirns seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/75 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-75	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (mailedn notice)
7-22-76	Filed Memo. End on Dfts. Mottion to Suppress. Motion Denied. See Minutes. Owen J. (mailed notice)
7-22-76	Filed Memo, End. on Dfts. Motion to Suppress dtd. 6-24-76. Motion Denied. See Minutes, Owen J. (mailed notice)
8-9-76	All Counsel present for P.T.C.
8-10-76	Trial begun - Interpreters Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd
8-12-76	Jury Selection Cont'd - Surpression Cont'd & Concluded.
8-17-76	Filed CJA 20 Copy 2 - approving payment to Gilbert Epstein, 100 Church St., NYC 10007 as dfts. Atty.
8-31-76	Filed transcript of record of proceedings, dated 7-21-76
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning Authority of Tape 3505-05 of concerning dft. intersome court finding: Tapes are Original Unaltered Version......Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd

(Cont'd)

DATE	PROCEEDINGS
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts.subject to the ultimate allowance of this court.....Owen J.(mm)
9-14-76	Trial Adjr. to 9-15-76.
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Juror #10 is excused & replaced by Alt.#1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk, Ent. 10-1-76. (mm)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated....Owen J. (mm)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial KCont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Govt Summation brgun....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-2-76	" " & Concluded - Govts Rebuttal begun.
11-4-76	Gov't Rebuttal Cont'd
11-9-76	Filed CJA Copy 2 Approving payment to Nicholas Figueroa, 277 Bway, NYC 10007 as counsel for dft......dtd..9-27-76........Owen J.

DATE	PROCEEDINGS	Date Order Judgment N
11-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date.......Owen J.	
11-12-76	Filed One Envelope Sealed- dtd. 8-30-76 - Ordered Sealed by the Court on this date.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Delibeaating Jury. Ordered Sealed by the Court this date.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection...Ordered Sealed by the Court.......Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76...Ordered Sealed by the Court 10-6-76 ....Owen J.	
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1976 from 10:00 A.M. on - Dft. Ct. 1- Guilty,Ct. 22- Guilty,Ct. 23 - Guilty, Bail R.O.R.Cont'd......Owen J.	
11-5-76	Trial Cont'd - Charge to Jury.'	
11-6-76	Charge Cont'd & Deliberations Begun.	
11-7-76	Deliberations Cont'd	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" "	
11-12-76	" " & Concluded.	
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed transcript of record of proceedings, dated Jun. 1,21,24&Jul.1,2,12&Aug.10,11,12-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 10,11,12,13-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 19,20,23,24-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 25,26,27,30-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug. 31,1976	
11-17-76	Filed [illegible] dated Sep. 1,2,3,7,8-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 9,10,13,,14,15-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 16,17,20,21,22-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 23,24,27,28,29-1976	
11-17-76	Filed transcript of record of proceedings, dated Sep. 30,1976	
11-17-76	Filed [illegible] dated Oct. 1,5,6,7,8-1976	
11-17-76	Filed [illegible] dated Oct. 19,21,22,25,26-1976	
11-17-76	Filed transcript of record of proceedings, dated Oct. 27,28,29-1976	
11-17-76	Filed transcript of record of proceedings, dated Nov. 1,2,3,4-1976	
12-23-76	Filed transcript of record of proceedings, dated 11. 5,6,7,8,9,10,11,12-1976	
1-27-77	Filed Dfts. Notice of Appeal from Judgment ~~XXXX~~ Entered 1-21-77.(mailed notice)	
1-21-77	Filed Judgment & Commitment (Atty. Nicolas Figueroa Present) The Dft. is hereby committed to the custody of the atty. Gen. or his authorized representative for imprisonment for a period of TWO (2) YEARS on Each Counts 1,28 & 29, to run currently to each other. Pur. to T. 21, Sec. 841,U.S.Code,the dft. is placed on Special Parole for a term of THREE (3) YEARS, on each of Counts 1,28,& 29, to commence upon the expiration of his confinement. Bail cont'd pending appeal. ....Owen J. Issued Commitment 1-31-77	

ITTY OFFENSE PO ☐
INOR OFFENSE MO ☐
ISDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE XXXXXXXX ssigned
0208 District | 1 Office
0862 Disp./Sentence

U.S. vs. MORRIS, JOHN a/k/a "Papers" (LAST, FIRST, MIDDLE) cl 1-21-77

JUVENILE ☐

Case Filed Mo. Day: 04 05
No. of Defts: * 33

76 Yr | 0324 Docket No. | 22 Def

U.S. MAG. CASE NO. ▶ 76-510

OFFENSES CHARGED

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	32

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied AMT Set
☐ Fugitive
☐ Pers. Recog
☐ PSA
$ 000
Date
conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other
☐ Bail Not Made
☐ Status Changed (See Docket)

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began: 4-21-76
Summons Served
First Appearance
High Risk Date
INDICTMENT ☒ Information ☐: 4-5-76
Indict. Waived ☐
In Charging District
Superseding ☐ Indict/Info ☐
ARRAIGNMENT
1st Plea: 4-29-76
☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea
☐ NG ☐ G ☐ NOL
Trial Set For
TRIAL
Voir Dire ☐
Trial Began: 8-10-76 ☒ J ☐ NJ
Trial Ended: 11-12-76
Disposition of Charges: 11-12-76
SENTENCE: 1-21-77
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP ☐ WP
☐ On Governm'ts Motion

MAGISTRATE

		DATE	INITIAL/NO.			INITIAL/NO.	OUTCOME
Search Warrant	Issued			INITIAL APPEARANCE DATE ▶			☐ DISMISSED
	Return			PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING	Date Scheduled ▶		☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Summons	Issued				Date Held ▶		☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
	Served			☐ WAIVED ☐ NOT WAIVED		Tape Number	
Arrest Warrant Issued				☐ INTERVENING INDICTMENT			
COMPLAINT ▶							
OFFENSE (In Complaint)							

ATTORNEYS

Defense ☒ CJA ☐ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

U.S. Attorney or Asst.
Daniel J. Beller
791-1992
207

Martin Gotkin, 250 W. 57th St., NYC 10019
Tel. 541 0350
1375

Show last names and suffix numbers of other defendants on same indictment/information
Alvarez, et al.

PROCEEDINGS

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE	(DOCUMENT NO.) PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	Brieant, J.
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	
4-29-76	Deft. (Atty. present) enters plea of not guilty. Bail at $10,000. be continued. Case assigned to Judge Owen. Atty. directed to report to chambers immediately.	MacMahon, J.
5-5-76	Filed the following papers rec'd from Mag. Bernikow. (Mag.576-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Financial Affdvt. Warrent pf Arrest - executed 4/21/76 Notice of Appearance-Martin E.Gotkin, 250 W.57th St., NYC 10019 CJA Form 20 Copy 5 appointing Martin E.Gotkin, 250 W. 57th St., NYC10019	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section II (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
4-29-76	JOHN MORRIS (Atty. Martin Gotkin Present) Applies for Bail Reduction ,Denied, Bail cont'd at $10,000.00 Remanded.				
5-18-76	Filed Dft.s Omnibus Notice of Motion for an order to examine transcript of proceedings of Grand Jury filed 4/5/76, & dismissing indictment. Rst. 6-1-76.				
6-1-76	All Motions Rtn. Today Jun 1st are Adjourned to Jun 4th @2:00 P.M.				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76 - 10:30 A.M				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated..The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith........OwenJ. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions due 8-3-76 directly to Chambers. ....Owen J. (mailed notice)				
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulars, are denied. Certain Dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered.....Owen J. (mailed notice				
7-20-76	Filed transcript of record of proceedings, dated 5-6-76				
7-20-76	Filed transcript of record of proceedings Dated 5-7-76				
7-20-76	[illegible] 5-20-76				
7-20-76	[illegible] 5-10-76				

FINE AND RESTITUTION PAYMENTS Cont'd

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

, Cr. 324 John Morris Dft.22

DATE	PROCEEDINGS Owen J.
7-16-76	Filed Opinion #44763.All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose identity of cooperating dfts.denied.Various Dfts. move to dismiss indictment on grounds of preindictment delay,motions denied.Movants seeking order enjoing Gov't from cross examining them about past record,any movant seeking this issue , hearing will be held on 7/21/76 in Room 318.All other motions denied as indicated........Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J.(maileed notice)
8-10-76	Filed Informantion of Prior felony conviction on 3/4/58.
8-10-76	Filed Information of Prior felony conviction on 1-15-54.
8-10-76	Filed Dfts. John Morris Requests for Voir Dire.
8-9-76	All Counsel Present for P.T.C.
8-10-76	Trial begun - Interpretors Gustavo Hoffman & Anita Zevallos.sworn. Jury Selection begun.
8-11-76	Jury selection cont'd.
8-12-76	Jury selection cont'd - Surpression cont'd & concluded.
8-13-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning authority of Tape 3505-05 of concerning dft. Intersome court finding: Tapes are Original Unaltered Version.....Owen J.
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commended on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court......Owen J.(mn)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & repiace by Alt.#1.

DATE	PROCEEDINGS
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76. Clerk, Ent. 10-1-76.(mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony, etc. shall be subject to immunition provisons as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicate. ......Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76.
10-21-76	Trial Cont'd - Gov't Summation begun.....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Concluded - Gov't Rebuttal begun
11-4-76	Gov't Rebuttal Cont'd
11-9-76	Filed CJA 20 Copy 2 Approving payment to Martin Gotkin,250 W. 57th St.,NYC 10019 as counsel for dft.......dtd. 9-27-76........Owen J.
11-12-76	Filed One Envelope Sealed - dtd. 10-6-76 - Ordered Sealed by the Court on this date....Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Envelope Sealed - dtd. 11-4-76. Notes from Deliberating Jury. Ordered sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope -d td. 8-13-76. Questions subm. to Court by counsel in jury selection....Ordered Sealed by the Court....Owen J.
	(Cont'd)

76 Cr. 324 John Morris Dft. 22

D. C. 110 Rev. Civil Docket Continuation

Page #5

DATE	PROCEEDINGS	Date Order or Judgment No
-12-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date......Owen N.	
11-12-76	Filed One Sealed Enfelope - dtd. 8-30-76 - Ordered Sealed by the Court on this date.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76 - Queatiions subm. to theCourt by counsel in jury selection...Ordered Sealed by the Court.....Owen J.	
11-12-76	Filed One Sealed Envelope - dtd. 11-15-76...Ordered Sealed by the Court 10-6-76. .....Owen J.	
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan 10,1976 from 10:00 A.M. on ---Dft. Ct. 1 Guilty,Cts. 25 - N/G; - Bail increased to $50,000.00 ---Remanded.....Owen J.	
11-5-76	Trial Cont'd -Charge to Jury.	
11-6-76	Charge Cont'd & Deliberating begun.	
11-7-76	Deliberations Cont'd	
11-8-76	" "	
11-9-76	" "	
11-10-76	" "	
11-11-76	" "	
11-12-76	" " & Concluded.	
11-17-76	Filed Redacted Indictment.	
11-17-76	Filed transcript of record of proceedings, dated Jun 1,21,24&Jul.1,2,12&Aug.10,11,12-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug 10,11,12,13-1976	
11-17-76	Filed transcript of record of proceedings, dated Aug 19,20,23,24-1976	
11-17-76	[illegible] Aug 25,26,27-30-1976	
11-17-76	[illegible] Aug 31,1976	
11-17-76	Filed transcript of record of proceedings, dated Sep 1,2,3,7,8-1976	
11-17-76	[illegible] Sep 9,10,13,14,15-1976	
11-17-76	[illegible] Sep 16,17,20,21,22-1976	
11-17-76	[illegible] Sep 23,24,27,28,29-1976	
11-17-76	[illegible] Sep 30,1976	
11-17-76	Filed transcript of record of proceedings, dated Oct 1,5,6,7,812-1976	
11-17-76	[illegible] Oct 19,21,22,25,26-1976	
11-17-76	[illegible] dated Oct 27,28,29-1976	
11-17-76	[illegible] Nov. 1,2,3,4-1976	
11-17-76		
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976	
1-24-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-21-77.(mailed notice)	
1-21-77	Filed Judgment & Commitment (Atty. Martin E Gotkin Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of TEN (10) YEARS. Pur. to T. 21, Sec. 841 U.S.Code, The dft. is place on Special Parole for a term of THREE (3) YEARS, to commence upon the expiration of his confinement.......Owen J. Issued Commitment 1-31-77	
2-2-77	Filed Mag. Final Commitment. Mag.Bernikow.	
2-8-77	Filed True Copy of J&C with marshals ret. Dft. delivered to Warden,MCC,NY on 1-21-77.	

Cl 1-13-77

OFFENSE PO ☐
OFFENSE MO ☐
MISDEMEANOR Mis ☐
FELONY Fel ☒

JUDGE/XXXXXX Assigned: 0208 1 Office
Disp./Sentence: 0862

U.S. vs. **MITCHELL, LAWRENCE a/k/ a "L. J."**
(LAST, FIRST, MIDDLE)

JUVENILE ☐

Case Filed Mo. Day: 04 05
No. of Defs: * 33

76 0324 23
Yr Docket No. Def.

U.S. MAG. CASE NO. 76-510

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	34

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set: $10,000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)
☐ Fugitive
☒ Pers. Recog.
☐ PSA

conditions
☐ 10% Deposit
☒ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began: 4/21/76
Summons Served
First Appearance
High Risk Date
INDICTMENT ☒ Information ☐: 4-5-76
Indict. Waived ☐
In Charging District
Superseding ☐ Indict/Info ☐
ARRAIGNMENT
1st Plea: 4-29-76 ☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea ☐ NG ☐ G ☐ NOL
TRIAL
Trial Set
Voir Dire ☐
Trial Began ☐ J ☐ N J
Trial Ended
Disposition of Charges
☐ Convicted
☐ Acquitted
☐ Dismissed:
☐ On Government's Motion
SENTENCE
☐ On All Charges
☐ On Lesser * Offense(s)
☐ WOP. ☐ WP

MAGISTRATE

	DATE	INITIAL/NO.
Search Warrant Issued		
Search Warrant Return		
Summons Issued		
Summons Served		
Arrest Warrant Issued		
COMPLAINT		
OFFENSE (In Complaint)		

INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled / Date Held
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
INITIAL/NO.
Tape Number
OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.
Daniel J. Beller
791-1992 207

ATTORNEYS Defense ☒ CJA ☒ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ FD ☐ CD

Helen Solleder, 19 Rector St., NYC 10006
Tel. DO 9-2222
Sidney H. Offer, 415 Lexington Ave., NYC 10017
665 8464

* Show last names and suffix numbers of other defendants on same indictment/information

DATE	(DOCUMENT NO.) PROCEEDINGS	EXCLUDABLE DELAY (a) (b) (c) (d)
4-5-76	Indictment filed. Lasker, J.	
	Indictment ordered sealed. Lasker, J.	
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.	
	Indictment ordered resealed. Brieant, J.	
4-21-76	Indictment ordered unsealed. Brieant, J.	
4-29-76	Deft. (without atty.) court directs a not guilty olea be entered. Bail $10,000. be continued. Case assigned to Judge Owen. MacMahon, J.	
5-5-76	Filed the following papers rec'd from Mag. Bernikow, (Mag.#76-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Financial Affdvt. Warrant of Arrest - executed 4/21/76 Mag. Final commitment Appearance Bond - PRB in the amt. of $10,000.0 surety Bond with Marine Midland Ins. Co.	
5-20-76	Bench Warrant Issued for Dft. - Dft. Appears. The B/W of this Date is vacated. Dft. to obtain counsel. Bail $10,000.00 Cash or Surety is Cont'd.....Owen J.	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 USC § [illegible]

PAGE TWO

DATE	IV. PROCEEDINGS (continued) (DOCUMENT NO.)	V. EXCLUDABLE DELA
05-21-76	Filed the following papers H rec'd from Mag. Office. Financial Affdvt. CJA Form 23 Copy 5 Appointing Sidney Offer, 415 Lexington Ave., NYC 10017 Tel. 661 8464.	
5-27-76	Filed Dfts. Notice of Motion for Discovery & Inspection. Ret. 6/1/76.	
5-27-76	Filed Dfts. Notice of Motion for Bill of Particulars. Ret. 6/1/76.	
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M.	
6-3-76	Filed Notice of Appearance by Sidney M.Offer, 415 Lexington Ave. NYC 10017 - Tel. 665 8464.	
6-3-76	Filed transcript of record of proceedings, dated 6-29-76- 10:30 A.M.	
6-15-76	Filed Gov'ts. Bill of Particulars.	
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)	
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)	
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.	
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.	
6-21-76	Surpression Held......Owen J.	
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)	
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire questions adjournd to 8-3-76 directly to Chambers....Owen J. (mailed notice)	
7-15-76	Filed Opinion #44760.All Motions of Dfts.as moved for discovery & Inspection & bill of particulars.are denied.Certain Dfts.moved for psychiartric information as indicated.The Foregoing is so Ordered.....Owen J. (mailed notice) Cont'd	

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

76 Cr. 324 Lawrence Mitchell Dft. 23

Owen J. Page #3

DATE	PROCEEDINGS
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings, dated 5-7-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings, dated 5-10-76
7-16-76	Filed Opinion #44768. All motions seeking disclosure of Gov't witnessess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue , hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (maileda notice).
8-9-76	All Counsel present for P.T.C
8-10-76	Trial begun. Interpretors Gustavo Hoffman & Anita Zevallos, sworn, Jury Selection begun.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd Surpression Cont'd & concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning Authority of Tape 3505-05 of concerning dft. Intersome court finding: Tapes are Original Unaltered Version.......Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court....Owen J. (mn)
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd

(Cont'd)

D. C. 100 Criminal Continuation Sheet

DATE	PROCEEDINGS
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-20-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clerk. Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony, etc. shall be subject to immunity as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicated.....Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Gov't Summation begun....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & Concluded - Govt Rebuttal begun.
11-4-76	Gov't Rebuttal Cont'd
11-9-76	Filed CJA Copy 2 Approving payment to Sidney M.Offer, 415 Lexington Ave., NYC 10017 as counsel for dft.....dtd. 9-27-76......Owen J.
	Filed One Sealed Envelope-dtd.10-6-76-Ordered Sealed by the Court on this date..Owen J
11-12-76	Filed One Sealed Envelope-dtd. 8-30-76.-Ordered Sealed by the Court on this date..Owen .
11-12-76	Filed One Sealed Envelope - dtd. 11-8-76. Notes from Deliberating Jury. Ordered Sealed by the Court this date.....Owen J.
1. 12-76	Filed One Sealed Envelope - dtd. 8-13-76.Questions subm.to the Court by counsel in jury selection......Ordered Sealed by the Court.....Owen J.
11-12-76	Filed One Envelope Sealed-dtd. 11-15-76. Ordered Sealed by the Court 10-6-76...Owen J.
11-12-76	P.S.T. Ordered for each dft. - Verdict- Sentencing Date for all dfts. - Jan 10,1977 from 10:00 A.M. on - Dft.Ct. 1 Guilty, Ct.27 Guilty; Bail Revoked - Remanded....Owen J.

(Cont'd)

DATE	PROCEEDINGS
11-5-76	Trial Cont'd Charge to Jury.
11-6-76	Charge Cont'd & Deliberations Cont'd
11-7-86	Deliberations Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed transcript of record of proceedings, dated Jun1, 21, 24&Jul 1, 2, 12& Aug, 10, 11, 12-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 10, 11, 12, 13-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 19, 20, 23, 24-1976
11-17-76	Filed transcript of record of proceedings, dated Aug25, 26, 27, 30-1976
11-17-76	Filed transcript of record of proceedings, dated Aug. 31, 1976
11-17-76	Filed transcript of record of proceedings, dated Sep 1, 2, 3, 7, 8-1976
11-17-76	Filed transcript of record of proceedings, dated Sep 9, 10, 13, 14, 15-1976
11-17-76	Filed transcript of record of proceedings, dated Sep 16, k7, 20, 21, 22-1976
11-17-76	Filed transcript of record of proceedings, dated Sep 23, 24, 27, 28, 29-1976
11-17-76	Filed transcript of record of proceedings, dated Sep 30, 1976
11-17-76	Filed transcript of record of proceedings, dated Oct 1, 5, 6, 7, 8, 12-1976
11-17-76	Filed transcript of record of proceedings, dated Oct19, 21, 22, 25, 26-1976
11-17-76	Filed transcript of record of proceedings, dated Oct 27, 28, 29-1976
11-17-76	Filed transcript of record of proceedings, dated Nov 1, 2, 3, 4-1976
12-9-76	Filed Dfts. Notice of Motion for order fixing bail for dft. pending sentence on 1/10/76. Ret. Sine Die.
12-13-76	Filed Memo. End. on motion dtd. 12-9-76. Motion denied as indicated.....Owen J. (mailed notice)
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976.
1-14-77	Filed Dfts. Notice of Appeal from judgment dtd. 1-14-77. (mn)
1-13-77	Filed Judgment & Commitment (Sidney M. Offer Atty. Present) The Dft. is hereby committed to the custody of the Atty. Gen. or his authorize xrepresentative for imprisonment for a period of TWELVE (12)YEARS on EACH of Counts 1 and 3 to run concurrently. Pursuant to the provisionse of T.21, Sec. 841, U.S.Code, the dft. is placed on Special Parole for a term of THREE (3) YEARS ON EACH OF COUNTS 1 and 3 to run concurrently. Dft. is not to be transferred fuom MCC facility for at least THIRTY (30) DAYS from today......Owen J. Issued Commitment 1-18-77.
1-18-77	Filed Order that dft. expressed intention to Appeal for new counsel & be permitted to remain in MCC through until 2/13/77forthat purpose & to permit him to confer with such new counsel in the event he is successful in his petition...Owen J. (mn)
1-24-77	Filed True Copy of J&C with marshals ret.Dft. delivered on 1-13-77 to Warden, MCC, NY.

D. C. 100 Criminal Continuation Sheet

Cl 1-21-77

FFENSE PO ☐
OFFENSE MO ☐
MEANOR Mis ☐
FELONY Fel x

JUDGE XXXXXXX Assigned 0862
0208 1 Office
Disp./Sentence

U.S. vs BONILLA, RAPHAEL, a/k/a "Spanish Michael" a/k/a "Little Michael"
(LAST, FIRST, MIDDLE)

Case Filed Mo 04 Day 05
No. of Defs
JUVENILE ☐

76 | 0324 | 25
Yr. | Docket No. | Def.

U.S. MAG. CASE NO. ▶ 76-510

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	39, 40

SUPERSEDING COUNTS

BAIL • RELEASE

☐ Denied
AMT Set ↓
$ 1,000
Date
☐ Bail Not Made
☐ Status Changed (See Docket)

☐ Fugitive
☒ Pers. Recog
☐ PSA

conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust
☐ Other

II. KEY DATES & INTERVALS

ARREST or Custody Began: 4/21/76
Summons Served
First Appearance
High Risk Date
Indict. Waived ☐
In Charging District

INDICTMENT X
Information ☐ 4-5-76
Superseding ☐ Indict/Info ☐

ARRAIGNMENT
1st Plea 4-29-76
Final Plea
☒ NG ☐ G ☐ NOL
{ G. Plea W./Drawn
☐ NG ☐ G ☐ NOL

TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 ☒ J ☐ NJ
Trial Ended 11-12-76

Disposition of Charges 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed

SENTENCE 1-21-77
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP. ☐ WP
☐ On Government's Motion

MAGISTRATE

	DATE	INITIAL/NO.
Search Warrant – Issued		
Search Warrant – Return		
Summons – Issued		
Summons – Served		
Arrest Warrant Issued		
COMPLAINT ▶		
OFFENSE (In Complaint)		

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING { Date Scheduled ▶ / Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
INITIAL/NO.

OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.
Daniel J. Beller
791-1992 207

ATTORNEYS Defense ☒ CJA ☐ Ret ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD
Brian C. Baker, % Greenfield & Baker, 299 Bway, NYC 10007
Tel. 964 5460

1425

Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

DATE	(DOCUMENT NO.) PROCEEDINGS		EXCLUDABLE DELAY (a) (b) (c) (d)
4-5-76	Indictment filed.	Lasker, J.	
	Indictment ordered sealed.	Lasker, J.	
4-20-76	Indictment ordered unsealed. B/W ordered. B/W issued.		
	Indictment ordered resealed.	Bricant, J.	
4-21-76	Indictment ordered unsealed.	Bricant, J.	
4-29-76	Deft. (Atty present) enters plea of not guilty. Bail at $10,000. be continued. Case assigned to Judge Owen. Atty directed to report to chambers immediately.	MacMahon, J.	
5-5-76	Filed the following papers rec'd from Mag. Bernokow. (Mag.#76-510) Docket Entry Sheet Criminal Complaint Disposition Sheet Financial Affdvt. Warrant of Arrest- executed 4-21-76. CJA 20 Copy 5 - appointing counsel, Brian C. Baker % Greenfield & Baker 299 Bway, NYC 10007 Tel. 964-5460 Mag. Final Commitment Appearance Bond- PRB in the amt. of $1,000.00. Notice of Appearance - Brian C. Baker, etc.		

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW IN SECTION V. ANY OCCURENCE OF EXCLUDABLE DELAY PER 18 U.S.C. § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval action (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
4-29-76	Dft. Bonilla (Atty Brian C. Baker Present) Applies for bail reduction. Bail Changed to $15,000.00 Secured by $1,000. cash & co-signed by mother & wife........Owen J.				
4-30-76	Bail application reduction for Dft. Reamudd. Dfts. Atty. Brian C. Baker Present) with Gov't AUSA Dan Bailer. Bail Changed to $15,000.00 Secured by $1,000.00 cash.....Owen J.				
5-17-76	Filed Order that the geographical limits of said bond be increased to include the area encompassed by the Fed. District Court for the Eastern Dist. of N.Y. & conditions of bond otherwise remain the same.....Owen J. (mailed notice)				
5-21-76	Filed Dfts. Notice of Motion for Order Directing Certain Discovery, etc. & Bill of Particulars, & Severance. Ret. 6/1/76.				
5-21-76	Filed Remand.				
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00P.M.				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76-10:30A.M				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concession is made the order of this court & the Gov't is to forthwith comply therewith......Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J. (mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied. OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76, to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice) Cont'd				

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

Cr. 324 Nonilla, Raphael, etc. Dft. 25

DATE	PROCEEDINGS Page #3 Judge Owen
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dir questions due 8-3-76 directly to Chambers....Owen J. (mailed notice)
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & inspection& bill of particulars, are denied. Certain Dfts. moved for psychiartric information as indicated. The Foregoing is so Ordered.....Owen J. (mailed notice)
7-20-76	Filed transcript of record of proceedings, dated 5-6-76
7-20-76	Filed transcript of record of proceedings, dated 5-11-76
7-20-76	Filed transcript of record of proceedings, dated 5-20-76
7-20-76	Filed transcript of record of proceedings, dated 5-10-76
7-16-76	Filed Opinion #44768. All motinns seeking disclosure of Gov't witnesess are denied. Dfts. motions to disclose indentity of cooperating dfts. denied. Various Dfts. move to dismiss indictment on grounds of preindictment delay, motions denied. Movnants seeking order enjoing Gov't from cross examining them about past record, any movant seeking this issue, hearing will be held on 7/21/76 in Room 318. All other motions denied as indicated.......Owen J. (mailed notice)
7-20-76	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J. (mailedx notice)
8-9-76	All Counsel present for P.T.C
8-10-76	Trial begun - Interpretors Gustavo Hoffman & Anita Zevallos sworn. Jury Selection begun.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd - Surpression Cont'd & Concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning authority of Tape 3505-05 of concerning dft. Intersome court finding: Tapes are Original Unaltered Version.......Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd

DATE	PROCEEDINGS
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justice Act, is authorized to file an interim voucher for services rendered under theCriminal Justice Act from the date of their appointment up to & including 9/10/76, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of this court......Owen J. (mn)
8-18-76	Trial Cont'd - openings Cont'd.
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held Concerning Authority of Tape 3505-05 concerning Dft. Intersome - Court Finding : Tapes are Original Unaltered Version......Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd -
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Juror #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76. Clerk, Ent. 10-1-76. (mn)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony etc. shall be subject to Immunity provisions as indicated. This Order shall not take effect until Peter J. Fiumara refuses to testify as indicate.....Owen J. (mn)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial XXXXXX Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Trial Cont'd
10-8-76	Trial Cont'd

(Cont'd)

r. 324 Bonilla, Raphael, etc. Dft. 25

110 Rev. Civil Docket Continuation Page #5

TE	PROCEEDINGS Judge Owen	Date Order or Judgment Noted
6	Trial Cont'd - Gov't Rests - Motions	
3-76	Trial Cont'd - Motions Cont'd	
4-76	Trial Cont'd	
5-76	Trial Cont'd	
8-76	" "	
9-76	" "	
0-76	TrialAdj. to 10-21-76	
1-76	Trial Cont'd Gov't Summations begun........Owen J.	
2-76	Summation Cont'd	
5-76	" "	
6-76	" "	
7-76	" "	
8-76	" "	
9-76	" "	
-76	" "	
-76	" "	
-76	" " & Concluded - Gov't Rebuttal begun.	
-76	Govt. Rebuttal Cont'd	
-76	Filed CJA 20 Copy 2 - Approving payment to Brian C. Baker, %Greenfiel & Baker 299 Bway, NYC 10007 - Dtd, 9-27-76 as counsel for dft.........Owen J. (Affdvt. attached)	
2-76	Filed One Sealed Envelope - dtd. 10-6-76 - Ordered Sealed by the Court on this date....Owen J.	
2-76	Filed One Sealed Envelope - dtd. 8-30-76 - Ordered Sealed by the Court on this date.....Owen J.	
2-76R	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating jury. Ordered Sealed by the Court on this date.....Owen J.	
2-76	Filed One Sealed Envelope - dtd. 8-13-76 - Questions subm. to court by counsel in jury selection.....Ordered Sealed by the Court......Owen J.	
2-76	Filed One Sealed Envelope - dtd. 11-15-76 - Ordered by the Court Sealed 10-6-76. ......Owen J.	
2-76	P.S.I. Ordered for each dft. - Verdict - Sentencing Date for All Dfts. - Jan. 10,1976 from 10}00 A.M. on - Dft. Ct. 1 Guilty:Ct. 29 Guilty, Ct. 30 N/G - Bail $15,000.00 Secured by $1,500.00 - Dft. to Call US Attys Office Tues & Fri. of Each Wk......Owen J.	
5-76	Trial Cont'd - Charge to Jury	
6-76	Charge Cont'd & Deliberations begun.	
7-76	Deliberations Cont'd.	
8-76	" "	
8-76	" "	
10-76	" "	
-76	" "	
12-76	" " & Concludddd	
17-76	Filed Redacted Indictment.	
7-76	Filed transcript of record of proceedings, dated Jun 1,21,24&Jul 1,2,12&Aug.10,11,12-1976	
7-76	Filed transcript of record of proceedings dated Aug10,11,12,13-1976	
7-76	[illegible] Aug 19,20,23,24-1976	
7-76	[illegible] Aug 25,26,27,30-1976	
7-76	[illegible] Aug 31,1976	
7-76	[illegible] Sep1,2,3,7,8-1976	
7-76	[illegible] Sep.9,10,13,14,15-1976	

76 Cr. 324

DATE	PROCEEDINGS	Date Order Judgment :
-17-76	Filed transcript of record of proceedings, dated Se. 16,17,20,21,22-1976	
11-17-76	[illegible] Sep.23,24,27,28,29-1976	
11-17-76	[illegible] Sep.30,1976	
11-17-76	[illegible] Oct.1,5,6,7,8,12-1976	
11-17-76	[illegible] Oct.19,21,22,25,26-1976	
11-17-76	[illegible] Oct. 27,28,29-1976	
11-17-76	[illegible] Nov. 1,2,3,4-1976	
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976	
1-24-77	Filed Dfts. Notice of Appeal from Judgment ent. 1-21-77. (mailed notice)	
1-21-77	Filed Judgment & Commitment (Atty. Brian C. Baker Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of Counts 1 & 39 ,to run concurrently to each other. Pur. to T. 21, Sec. 841,U.S Code, dft. is placed on Special Parole for a term of THREE (3) YEARS, on each of Counts 1 & 39 to run concurrently to each other & to commence upon the expiration of his confinement. Bail is continued pending appeal.......Owen J. Issued Commitment 1-31-77.	

C. 1-21-77

OFFENSE PO ☐
OFFENSE MO ☐
EMEANOR Mis ☐
FELONY Fel X

JUDGE XXXXXX Assigned 0862
0208 1 Office
Disp./Sentence

U.S. vs. COWPERS, CHARLES a/k/a "Shi"
(LAST, FIRST, MIDDLE)
☐ JUVENILE

Case Filed Mo. Day 04 05
No. of Defts * 33

76 | 0324 | 26
Yr. | Docket No. | Def.

U.S. MAG. CASE NO ▶ 76-510

OFFENSES CHARGED

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Narco. Laws.	1
21:812, 841	Distr. & possess. of Cocaine II.	36

SUPERSEDING COUNTS

BAIL • RELEASE
☐ Denied AMT Set
☐ Fugitive
☐ Pers. Recog.
☐ PSA
$. 000
Date
conditions
☐ 10% Deposit
☐ Surety Bond
☐ Collateral
☐ 3rd Prty Cust.
☐ Other
☐ Bail Not Made
☐ Status Changed (See Docket)

II. KEY DATES & INTERVALS

ARREST or
U.S. Custody Began 4-21-76
Summons Served
First Appearance

High Risk Date
Indict. Waived ☐
In Charging District

INDICTMENT X
Information 4-5-76
Superseding ☐ Indict/Info ☐

ARRAIGNMENT 4-29-76
1st Plea 4-29-76
☒ NG ☐ G ☐ NOL
G. Plea W/Drawn
Final Plea
☐ NG ☐ G ☐ NOL

TRIAL
Trial Set For
Voir Dire ☐
Trial Began 8-10-76 X
Trial Ended 11-12-76

Disposition of Charges 11-12-76
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On Governm'ts Motion

SENTENCE 1-21-77
☐ On All Charges
☐ On Lesser * Offense(s)
☐ WOP ☐ WP

MAGISTRATE

		DATE	INITIAL/NO.
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			
OFFENSE (In Complaint)			

INITIAL APPEARANCE DATE ▶
PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING: Date Scheduled ▶ / Date Held ▶
☐ WAIVED ☐ NOT WAIVED
☐ INTERVENING INDICTMENT
Tape Number
INITIAL/NO.

OUTCOME:
☐ DISMISSED
☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

ATTORNEYS

Defense: X CJA ☐ Ret. ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CD

U.S. Attorney or Asst.
Daniel J. Beller
791-1992 207

William Richman- 475 Fifth Ave., NYC 10017
986 1075

1239

* Show last names and suffix numbers of other defendants on same indictment/information

Alvarez, et al.

EXCLUDABLE DELAY (a) (b) (c) (d)

DATE (DOCUMENT NO.)	PROCEEDINGS	
4-5-76	Indictment filed.	Lasker, J.
	Indictment ordered sealed.	Lasker, J.
4-20-76	Indictment ordered unsealed. B/W. ordered. B/W issued.	Brieant, J.
	Indictment ordered resealed.	Brieant, J.
4-21-76	Indictment ordered unsealed.	
4-29-76	Deft. (Atty present) enters plea of not guilty. Bail continued as fixed by Magistrate $25,000. Remanded. Case assigned jto Judge Owen. Atty. directed to report to chambers immediately.	MacMahon, J.
5-5-76	Filed the following papers rec'd from Mag. Bernikow. (Mag. #76-510) Docket Entry Sheet, Criminal Complaint Disposition Sheet Financial Affdvt. Warrant of Arrest - executed on 4-21-76 CJA Form 20 Copy 5 - appointing William Richman, 475 Fifth Ave. NYC 10017. Notice of Appearance - William L. Richman, 475 Fifth Ave. NYC 10017 Tel. 986-1075 Financial Affdvt.	

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued) PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELAY Interval Section (a)	Start Date End Date (b)	Ltr Code (c)	Total Days (d)
4-29-76	Dft. Cowpers (Atty. William L. Richmant Present) Bail reduction application - Bail changed to $10,000.00 Cash or Surety..Owen J.				
[illegible]-10-76	Issued Remand.				
5-11-76	Filed PRB in the amt. of $10,000. Secured by Midland Ins. Co.				
5-18-76	Filed Mag. Final Commitment.				
5-19-76	Filed Dft.s Notice of Motion for an order compelling the prosecution to furnish dft. all statements,etc. made by co-dfts. to any agency of the Gov't now in the possession etc. & granting dft. an opportunity as indicated, & Bill of Particulars as indicated;				
5-21-76	Filed Remand				
6-1-76	All Motions Rtn. Today Jun 1st Are Adjourned to Jun 4th @2:00 P.M				
6-3-76	Filed transcript of record of proceedings, dated 4-29-76-10:30 AM				
6-15-76	Filed Gov'ts. Bill of Particulars.				
6-16-76	Filed Opinion #44578. The Gov'ts Memorandum of law 17 Matters with prepared to accede as to each dft. as indicated. The Gov't concessionis made the order of this court & the Gov't is to forthwith comply therewith ....Owen J. (mailed notice)				
6-18-76	Filed Order that each dft. represented yb counsel who is appointed under Criminal Justice Act is authorized to retain investigation services & expend up to the statutory limit of $300.00 & dfts. may at their option retain the named investigator & apply their authorized moneys severally to his fee as allowed by this Court...Owen J.(mailed notice)				
6-30-76	Filed order that all voir dire Questions are to be submitted by 7-14-76 OWEN.J. m/n/.				
6-29-76	Filed Opinion #44673..Deft's John Capra, Steven Dellacava and Leoluca Guarino, are colledtively sever for a later trial. Beyond the foregoing, all motions to sever ar denied.OWEN.J.m/n.				
6-21-76	Surpression Held.....Owen J.				
7-7-76	Filed Memorandum & order. It is ordered in the interests of justice, that the trial of this action is adjourned from 7-19-76 to 8/10/76,to begin at 10:00 a.m. in Courtroom 318 ....Owen J. (mailed notice)				
7-9-76	Filed Memorandum Order Trial has been adjourned to 8-10-76, proposed voir dire due 8-3-76 directly to Chambers...Owen J.				

(CONT'D)

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

inal 324 Charles Cowpers, etc. Dft.25

Page#3

DATE	PROCEEDINGS
7-15-76	Filed Opinion #44760. All Motions of Dfts. as moved for discovery & Inspection & bill of particulars, are denied...Certain Dfts. moved for psychiartric information as indicated...The Foregoing is so Ordered.....Owen J.(mailed notice)
7-20-76	[illegible] 5-6-76
7-20-76	[illegible] 5-7-76
7-20-76	[illegible] 5-30-76
7-20-76	[illegible] 5-10-76
7-16-76	Filed Opinion #44768.All motions seeking disclosure of Gov't witnesses are denied. Dfts. motions to disclose identity of cooperating dfts.denied.Various Dfts. move to dismiss indictment on grounds of preindictment delay,motions denied.Movants seeking order enjoing Gov't from cross examining them about past record,any movant seeking this issue , hearing will be held on 7/21/76 in Room 318.All other motions denied as indicated........Owen J. (mailed notice)
7-20-75	Filed Opinion #44769. Gov't orderd to deliver in camera inspection as indicated. ....Owen J.(mailedx notice)
8-10-76	Filed Informantion of Prior Felony Conviction on 1-29-70/
8-9-76	All Counsel present for P.T.C.
8-10-76	Trial Begun - Interpretors Gustavo Hoffman & Anita Zevallos sworn, Jury Selection begun.
8-11-76	Jury Selection Cont'd.
8-12-76	Jury Selection Cont'd Surpression Cont'd & Concluded.
8-18-76	Trial Cont'd - Openings Cont'd
8-19-76	Trial Cont'd
8-20-76	Trial Cont'd
8-23-76	Trial Cont'd
8-24-76	Trial Cont'd
8-25-76	Trial Cont'd
8-26-76	Trial Cont'd
8-27-76	Trial Cont'd
8-30-76	Trial Cont'd
8-31-76	Trial Cont'd
9-1-76	Trial Cont'd
9-2-76	Trial Cont'd
9-3-76	Trial Cont'd
9-7-76	Trial Cont'd - Hearing Held concerning authority of Tape 3505-05 of concerning dft. intersome court finding: Tapes are Original Unaltered Version....Owen J.
9-8-76	Trial Cont'd
9-9-76	Trial Cont'd
9-10-76	Trial Cont'd
9-13-76	Trial Cont'd
9-14-76	Filed Order that each counsel who is appointed under the Criminal Justica Act, is authorized to file an interim voucher for services rendered under the Criminal Justice Act from the date of their appointment up to & including 9/10/75, the actual trial having commenced on 8/10/76 & continuing & the assigned counsel may file a final voucher subsequent to the termination of trial as to their respective dfts. subject to the ultimate allowance of thei court....Owen J. (m)

DATE	PROCEEDINGS
9-14-76	Trial Adj. to 9-15-76
9-15-76	Trial Cont'd
9-16-76	Trial Cont'd
9-17-76	Trial Cont'd
9-20-76	Trial Cont'd Jurer #10 is excused & replaced by Alt. #1.
9-21-76	Trial Cont'd
9-22-76	Trial Cont'd
9-23-76	Filed True Copy of USCA Mandate. District Court Order is Affirmed. Judgment Ent. 9-24-76 Clark, Ent. 10-1-76. (rm)
10-8-76	Filed Gov'ts Application for an order of Immunity as to Peter J. Fiumara, witness.
10-8-76	Filed Order that Peter J. Fiumara give testimony & that any testimony, etc. shall be subject to Immunity provisions as indicated. This Order shall not take effect until Peter J Fiumar refuses to testify as indicated....Owen J. (mm)
9-23-76	Trial Cont'd
9-24-76	Trial Cont'd
9-27-76	Trial Cont'd
9-28-76	Trial Cont'd
9-29-76	Trial Cont'd
9-30-76	Trial Cont'd
10-1-76	Trial Cont'd
10-4-76	Trial Adj.
10-5-76	Trial Cont'd
10-6-76	Trial Cont'd
10-7-76	Triall Cont'd
10-8-76	Trial Cont'd
10-12-76	Trial Cont'd - Gov't Rests - Motions
10-13-76	Trial Cont'd - Motions Cont'd
10-14-76	Trial Cont'd
10-15-76	Trial Cont'd
10-18-76	" "
10-19-76	" "
10-20-76	Trial Adj. to 10-21-76
10-21-76	Trial Cont'd - Govt. Summations begun.....Owen J.
10-22-76	Summation Cont'd
10-25-76	" "
10-26-76	" "
10-27-76	" "
10-28-76	" "
10-29-76	" "
11-1-76	" "
11-2-76	" "
11-3-76	" " & concluded Govt Rebuttal Begun.
11-4-76	Govt. Rebuttal Cont'd
11-9-76	Filed CJA 20 Copy 2 - Approving payment to William Richman, 475 Fifth Ave., NYC 10017 as dfts. counsel...dtd. 9-27-76.....Owen J.
11-12-76	Filed One Sealed Envelope - Dtd, 10-6-76- Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-30-76. Ordered Sealed by the Court on this date......Owen J.
	(Cont'd)

Cr.324 Charles Cowpower

DATE	PROCEEDINGS
11-12-76	Filed One Sealed Envelope - dtd. 11-4-76. Notes from Deliberating Jury. Ordered Sealed by the Court on this date......Owen J.
11-12-76	Filed One Sealed Envelope - dtd. 8-13-76. Questions subm. to Court by counsel in jury selection.........Ordered Sealed by the Court......Owen J.
11-12-76	Filed One Envelope Sealed ..Dtd. 11-15-76. Ordered Sealed by the Court 10-6-76. .....Owen J.
11-12-76	P.S.I. Ordered for each dft. - Verdict - Sentencing date for all dfts. - Jan. 10,1977 from 10:00 A.M. on - Dft. - Ct. 1 Guilty,Ct. 28 Guilty, Bail Revoked Remanded......Owen J.
11-5-76	Trial Con'd - Charge to Jury.
11-6-76	Charge Cont'd & Deliberating Begun
11-7-76	Deliberating Cont'd
11-8-76	" "
11-9-76	" "
11-10-76	" "
11-11-76	" "
11-12-76	" " & Concluded.
11-17-76	Filed Redacted Indictment.
11-17-76	Filed transcript of record of proceedings, dated Jun 1,21,24&Jul.1,2,12& Aug.10,11,12-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 10,11,12,13-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 19,20,23,24-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 25,26,27,30-1976
11-17-76	Filed transcript of record of proceedings, dated Aug 31,1976
11-17-76	[illegible] Sep1,2,3,7,8-1976
11-17-76	[illegible] Sep 9,10,13,14,15-1976
11-17-76	Filed transcript of record of proceedings, dated Sep 16,17,20,21,22,-1976
11-17-76	Filed transcript of record of proceedings, dated Sep23,24,27,28,29,1976
11-17-76	[illegible] Sep 30,1976
11-17-76	[illegible] Oct1,5,6,7,8,12-1976
11-17-76	Filed transcript of record of proceedings, dated Oct 19,21,22,25,26-1976
11-17-76	[illegible] Oct 27,28,29-1976
11-17-76	Filed transcript of record of proceedings, dated Nov. 1,2,3,4-1976
12-23-76	Filed transcript of record of proceedings, dated 11-5,6,7,8,9,10,11,12-1976
1-24-77	Filed Dfts. Notice of Appeal from Judgment dtd. 1-24-77.(mailed notice)
1-21-77	Filed Judgment & Commitment (Atty. William L.Richman Present) The Dft. is hereby committed to the custody of the atty. gen. or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on Each of Counts 1 & 36 to run currently to each other. Pur. to T. 21 Sec. 841, U.S.Code, the Dft. is placed on Special Parole for a term of THREE (3) YEARS on Each of Counts 1 & 36 to run concurrely to each other & to commence upon the expiration of his confinement.... ....Owen J. Issued Commitment 1-31-77.
2-2-77	Filed True Copy of J&C with marshals ret. Deft. delivered to Warden, MCC,NY on 1-21-77.

SAMPLE

DATE	PROCEEDINGS
2-22-77	Filed Memo. End. on Motion firle 2 22-77.Bail pending appeal from judgment & sentence. Ret. Sine Die. Motion Denied. wit'out prejudice. See minutes of February 17,1977......Owen J.
2-22-77	Filed Dfts. Notice of Motion - Re: Bail pending appeal from judgment & sentence, Ret. Sine Die.

[illegible]
-195

76-510

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - - - - - - - - - - - - - - - -x

UNITED STATES OF AMERICA :

- v - :

INDICTMENT

76 Cr. 324

JUAN ANTONIO ALVAREZ, a/k/a "Tony," :
ANGEL RODRIGUEZ, a/k/a "Angelo,"
JOSE LUIS SUREDA, a/k/a "Luis," :
FRANK MOTEN, a/k/a "Uncle,"
SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," :
JOHN CAPRA, a/k/a "Johnny Hooks," :
LEOLUCA GUARINO,
STEVEN DELLACAVA, a/k/a "Beansie," :
WILLIAM HIGHTOWER,
SIDNEY FOSTER, a/k/a "Chinch," :
JOSEPH SAMPSON, a/k/a "Footnose,"
LOIS SAMPSON, :
ANN REYNOLDS, a/k/a "Lois's Sister," :
MICHAEL PARKER,
YVONNE ALVAREZ SCHEINAULT, :
AL WILLIAMS, a/k/a "Big Al from Chicago," :
DONALD O'DOOD,
DON WILSON, a/k/a "Don from South Carolina," :
JAMES LAWS, a/k/a "Toba the Robe," :
TOMMY DAVIS, a/k/a "Bipty,"
BERNARD BRIGHTMAN, a/k/a "Babe," :
JOHN MORRIS, a/k/a "Papers,"
LAWRENCE MITCHELL, a/k/a "L.J.," :
SOLON CLAZE, a/k/a "Solo,"
RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a "Little Michael," :
CHARLES COWPERS, a/k/a "Shi," :
MARION DUNMORE, a/k/a "Shi's Woman," a/k/a "Toni," :
ALBERT LEE JONES, a/k/a "Al from Norfolk," :
HELEN KELLEM, a/k/a "Pam,"
JOHN P. MORGAN, a/k/a "J.P.," :
NELSON ALVAREZ, a/k/a "Tony's Brother," :
EDUARDO YAUJAR, a/k/a "Angelo's Uncle," :
LAZARO YAUJAR, a/k/a "Angelo's Cousin," :

Defendants. :
- - - - - - - - - - - - - - - - - - -x

COUNT ONE

The Grand Jury charges:

1. From on or about January 1, 1968, and continuously thereafter up to and including the date of the filing

d-195

of this indictment, in the Southern District of New York, and elsewhere,

JUAN ANTONIO ALVAREZ, a/k/a "Tony,"
ANGEL RODRIGUEZ, a/k/a "Angelo,"
JOSE LUIS SUREDA, a/k/a "Luis,"
FRANK MOTEN, a/k/a "Uncle,"
SEBASTIAN INTERSIMONE, a/k/a
  "Benny," a/k/a "Mr. B,"
JOHN CAPRA, a/k/a "Johnny Hooks,"
LEOLUCA GUARINO,
STEVEN DELLACAVA, a/k/a "Beansie,"
WILLIAM HIGHTOWER,
SIDNEY FOSTER, a/k/a "Chinch,"
JOSEPH SAMPSON, a/k/a "Bootnose,"
LOIS SAMPSON,
ANN REYNOLDS, a/k/a "Lois's
  Sister,"
MICHAEL PARKER,
YVONNE ALVAREZ SCHENNAULT,
AL WILLIAMS, a/k/a "Big Al from
  Chicago,"
DONALD O'DOOD,
DON WILSON, a/k/a "Don from South
  Carolina,"
JAMES LAWS, a/k/a "Tobe the Robe,"
TOMMY DAVIS, a/k/a "Bipty,"
BERNARD BRIGHTMAN, a/k/a "Nabe,"
JOHN MORRIS, a/k/a "Papers,"
LAWRENCE MITCHELL, a/k/a "L.J.,"
SOLON GLAZE, a/k/a "Solo,"
RAPHAEL BONILLA, a/k/a "Spanish
  Michael," a/k/a "Little Michael,"
CHARLES COWPERS, a/k/a "Shi,"
MARION DUNMORE, a/k/a "Shi's
  Woman," a/k/a "Toni,"
ALBERT LEE JONES, a/k/a "Al from
  Norfolk,"
HELEN KELLEM, a/k/a "Pam,"
JOHN P. MORGAN, a/k/a "J.P.,"
NELSON ALVAREZ, a/k/a "Tony's
  Brother,"
EDUARDO YAUJAR, a/k/a "Angelo's
  Uncle,"
LAZARO YAUJAR, a/k/a "Angelo's
  Cousin,"

the defendants, and others to the Grand Jury known and unknown, unlawfully, wilfully and knowingly, combined, conspired, confederated and agreed together and with each other, to violate the narcotics laws of the United States, specifically, Sections 173, 174, 812, 841(a)(1) and 841(b)(1)(A), 951, 952 and 960 of Title 21, United States Code.

DS:bg
d-195

THE OBJECTS OF THE CONSPIRACY

2. It was part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully and knowingly would import and bring into the United States large amounts of narcotic drugs, specifically heroin and cocaine, from and through countries unknown in South America and other places, in violation of Sections 173, 174, 951, 952 and 960 of Title 21, United States Code.

3. It was a further part of the conspiracy charged herein that the said defendants and co-conspirators, unlawfully, wilfully and knowingly would receive, conceal, keep, sell and facilitate the transportation, concealment and sale of narcotic drugs, specifically heroin and cocaine, after these narcotic drugs had been imported and brought into the United States contrary to law, knowing that these narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

4. It was a further part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully, intentionally and knowingly, would distribute and possess with intent to distribute heroin and cocaine, which are classified under law as Schedule I and II narcotic drug controlled substances, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

THE MEANS USED BY THE DEFENDANTS AND CO-CONSPIRATORS TO ACCOMPLISH THE OBJECTS OF THE CONSPIRACY

5. Among the means whereby the defendants and co-conspirators would and did carry out the objects of said conspiracy, and insure the success of the unlawful venture to import, buy, sell and distribute narcotic drugs for profit, were the following:

(a) The conspiracy took the form of a loose-knit business organization with members of the conspiracy operating at three basic levels. At the first level, some of the defendants and co-conspirators served as importers and sources of supply of narcotic drugs. At the second level, other members of the conspiracy acted as middlemen, purchasing narcotic drugs, in wholesale quantities directly from the suppliers. In turn, these middlemen sold heroin and cocaine in multi-kilogram quantities to defendants and co-conspirators at the third level who, in turn, distributed these drugs to their respective customers. Certain of the other defendants and co-conspirators performed specialized functions which were essential to the success of the overall conspiracy. In this fashion, a chain of distribution was established for this narcotics-trafficking business leading from sources of heroin and cocaine through middlemen, wholesalers and retailers and ultimately to narcotic addicts and users in New York City, Washington, D.C., Chicago, Illinois, Miami, Florida, and other cities in the United States.

(b) During the course of the said conspiracy the said defendants played the following roles in this conspiracy:

Importers and Sources of Supply

(1) Defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," were importers and suppliers of cocaine, doing business in New York City and Miami, Florida, who between 1968 and 1974 sold approximately 70 kilograms of cocaine each year.

(2) Defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," was a supplier of heroin, doing business in New York City.

(3) Defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," were suppliers of heroin, doing business in New York City, who between 1970 and 1973 sold kilogram quantities of heroin each month.

Wholesale Middlemen

(4) John Brown, a/k/a "Jack," named herein as a co-conspirator, but not as a defendant, was a bulk purchaser of heroin and cocaine from the importers and sources of supply.

(5) Defendant FRANK MOTEN, a/k/a "Uncle," was an advisor to John Brown, a/k/a "Jack," delivered narcotic drugs to Brown and received drugs from him, introduced certain defendants and co-conspirators to Brown for the purpose of purchasing drugs, vouched for them as reliable persons, financed the narcotic operations of several of the defendants and co-conspirators, engaged in financial dealings for Brown and other of the defendants and co-conspirators, and shared in the profits of the conspiracy.

(6) Defendant MICHAEL PARKER delivered narcotic drugs on several occasions to several of the defendants and co-conspirators.

Wholesale Traffickers

(7) Defendants WILLIAM HIGHTOWER, SIDNEY FOSTER, a/k/a "Chinch," JOSEPH SAMPSON, a/k/a "Bootnose," and LOIS SAMPSON, purchased and resold kilogram quantities of heroin and cocaine while doing business in Washington, D.C. and New York City.

(8) Defendants YVONNE ALVAREZ SCHERRAULT, AL WILLIAMS, a/k/a "Big Al from Chicago," and DONALD O'DOOD purchased and resold kilogram quantities of heroin and cocaine while doing business in Chicago, Illinois, Miami, Florida and New York City.

(9) Defendants DON WILSON, a/k/a "Don from South Carolina," JAMES LAWS, a/k/a "Tobe the Robe," TOMMY DAVIS, a/k/a "Bipty," BERNARD BRIGHTMAN, a/k/a "Nabe," JOHN MORRIS, a/k/a "Papers," LAWRENCE MITCHELL, a/k/a "L.J.," SOLON GLAZE, a/k/a "Solo," RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a "Little Michael," CHARLES COWPERS, a/k/a "Shi", MARION DUNMORE, a/k/a Shi's Woman," a/k/a "Toni," ALBERT LEE JONES, a/k/a "Al from Norfolk", HELEN KELLEM, a/k/a "Pam", ANN REYNOLDS, a/k/a "Lois's Sister," and JOHN P. MORGAN, a/k/a "J.P.," purchased and resold kilogram quantities of cocaine and, with respect to certain of the defendants and co-conspirators, heroin while doing business in New York City and, in certain cases, in various cities in New Jersey.

Other Defendants

(10) Defendants NELSON ALVAREZ, a/k/a Tony's Brother," built secret compartments in various locations in Florida where he and his brother, defendant JUAN ANTONIO ALVAREZ, a/k/a "Tony," hid large amounts of cocaine and money related to narcotics transactions.

(11) Defendants NELSON ALVAREZ, a/k/a "Tony's Brother," EDUARDO YAUJAR, a/k/a "Angelo's Uncle," and LAZARO YAUJAR, a/k/a "Angelo's Cousin," picked up money as payment for narcotics and delivered it to defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," and ANGEL RODRIGUEZ, a/k/a "Angelo."

(12) Other co-conspirators, not named herein as defendants, served respectively during the course of the said conspiracy as suppliers of narcotic drugs and as purchasers and resellers of narcotic drugs, in various cities in the United States.

(c) The importers, wholesalers and retailers of heroin and cocaine who were the members of this conspiracy knew that their actions were inextricably linked to and aided by the actions of co-conspirators and, because of the scope of the venture, knew that others were involved in the performance of functions vital to the overall success of the business. Accordingly, each level of the operation depended for its success upon the existence of the others.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

1. In and about October, 1968, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York, New York.

2. Thereafter, in and about November, 1968, the defendants SOLON GLAZE, a/k/a "Solo," LAWRENCE MITCHELL, a/k/a "L.J.," JOHN MORRIS, a/k/a "Papers" and JOSEPH SAMPSON a/k/a "Bootnose" purchased cocaine in New York, New York.

3. In and about 1968, the defendants AL WILLIAMS, a/k/a "Big Al from Chicago," DONALD O'DOOD, and another person purchased approximately three kilograms of heroin in New York, New York.

4. In and about March or April, 1969 the defendants ANGEL RODRIGUEZ, a/k/a "Angelo," and LUIS SUREDA, a/k/a "Luis," sold approximately 20 kilograms of cocaine in New York, New York.

5. In and about 1969 the defendant SIDNEY FOSTER a/k/a "Chinch," traveled to New York approximately four times each month to pick up eighth-kilogram quantities of heroin and cocaine for the defendant WILLIAM HIGHTOWER.

DE:bg
d-195

6. In and about 1969, the defendant FRANK MOTEN, a/k/a "Uncle," received large amounts of money in New York City.

7. In and about February, 1970, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," had a conversation in Madison Square Garden in New York City.

8. In and about October 1970, the defendants FRANK MOTEN, a/k/a "Uncle," JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," WILLIAM HIGHTOWER, TOMMY DAVIS, a/k/a "Bipty," JOSEPH SAMPSON, a/k/a "Bootnose," LOIS SAMPSON, and MICHAEL PARKER, met in Atlanta, Georgia.

9. In and about May, 1971, the defendant FRANK MOTEN, a/k/a "Uncle," delivered money to the defendant SOLON GLAZE, a/k/a "Solo", to be used in the purchase of narcotics.

10. In and about 1971 the defendant FRANK MOTEN, a/k/a "Uncle," delivered money to the defendant JOHN MORRIS, a/k/a "Papers", to be used in the purchase of narcotics.

11. In and about the Fall of 1971 the defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," sold approximately four kilograms of heroin in New York, New York.

12. Thereafter, in and about the Fall of 1971, the defendants WILLIAM HIGHTOWER, JOSEPH SAMPSON, a/k/a "Bootnose," and LOIS SAMPSON, purchased heroin in New York, New York.

13. In and about the fall of 1971, the defendants JUAN ANTONIO ALVAREZ , a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York, New York.

14. In and about November, 1971, the defendant JAMES LAWS, a/k/a "Tobe the Robe," purchased approximately one kilogram of cocaine in New York, New York.

15. In and about December 1971, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," sold approximately three kilograms of heroin to the defendants YVONNE ALVAREZ SCHENNAULT, AL WILLIAMS, a/k/a "Big Al from Chicago," and DONALD O'DOOD, in New York City for $27,000 per kilogram.

16. In and about March or April, 1972, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," delivered a quantity of heroin in New York, New York.

17. In and about June, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," had a telephone conversation with another person.

18. In and about September, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," told another person that he would be responsible for all debts arising from the cocaine purchases of the defendant BERNARD BRIGHTMAN, a/k/a "Nabe."

19. In and about September, 1972, the defendant BERNARD BRIGHTMAN, a/k/a "Nabe," purchased approximately one-eighth kilogram of cocaine in New York, New York.

20. In and about September, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," sold approximately one kilogram of cocaine in New York, New York.

21. In and about October, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," sold approximately one kilogram of cocaine in New York, New York.

22. In and about November, 1972, the defendant DON WILSON, a/k/a "Don from South Carolina," received a approximately ten kilograms of cocaine in Orangeburg, New York.

23. In and about December, 1972, the defendant LOIS SAMPSON received approximately one kilogram of cocaine in Orangeburg, New York.

24. In and about December, 1972, the defendant ANN REYNOLDS, a/k/a "Lois's Sister," received approximately one kilogram of cocaine in Orangeburg, New York.

25. In and about January, 1973, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 18 kilograms of cocaine in New York, New York.

26. In and about January, 1973, the defendant BERNARD BRIGHTMAN, a/k/a "Nabe," received a quantity of cocaine in Orangeburg, New York.

27. In and about 1973, the defendant LOIS SAMPSON delivered approximately three-eighths kilogram of cocaine to the defendant WILLIAM HIGHTOWER in Washington, D.C.

28. In and about February, 1973, the defendant LAWRENCE J. MITCHELL, a/k/a "L.J.," received approximately one kilogram of cocaine in New York, New York.

29. In and about February, 1973, the defendant CHARLES COWPERS, a/k/a "Shi," received approximately one-eighth kilogram of cocaine in New York, New York.

30. On or about April 13, 1973, the defendant STEVEN DELLACAVA, a/k/a "Beansie," agreed to deliver one kilogram of heroin in New York, New York.

31. On or about April 13, 1973 the defendant STEVEN DELLACAVA, a/k/a "Beansie," had in his possession approximately $14,000.

32. In and about April, 1973, the defendants FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," received approximately one-half kilogram of cocaine at 135 West 96th Street, New York, New York.

33. In and about the summer of 1973, the defendants JUAN ANTONIO ALVAREZ, a/k/a, "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York City.

34. Thereafter, in and about the summer or fall of 1973, the defendant YVONNE ALVAREZ SCHENNAULT purchased approximately 12 kilograms of cocaine in New York, New York.

35. In and about February, 1974, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony" and ANGEL RODRIGUEZ, a/k/a "Angelo" sold approximately 18 kilograms of cocaine in Miami, Florida.

36. In and about February or March, 1974, the defendant YVONNE ALVAREZ SCHENNAULT purchased approximately 10 kilograms of cocaine in Miami, Florida.

37. In and about February or March, 1974, the defendants FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," purchased approximately 2 kilograms of cocaine in Miami, Florida.

38. In and about March or April, 1974, the defendant DON WILSON, a/k/a "Don from South Carolina," purchased approximately one kilogram of cocaine in Miami, Florida.

39. In and about March or April, 1974, the defendant MICHAEL PARKER purchased cocaine in Miami, Florida.

40. In and about April or May, 1974, the defendants, JUAN ANTONIO ALVAREZ, a/k/a "Tony" and ANGEL RODRIGUEZ, a/k/a "Angelo," sold approximately 20 kilograms of cocaine in Miami, Florida.

41. In and about April or May, 1974, the defendant YVONNE ALVAREZ SCHENNAULT purchased approximately 14 kilograms of cocaine in Miami, Florida.

42. In and about May 1974, the defendant DON WILSON a/k/a "Don from South Carolina," met with the defendant MICHAEL PARKER and another person in Miami, Florida.

43. In and about May and June, 1974, the defendant MICHAEL PARKER sold cocaine to the defendants WILL HIGHTOWER and SIDNEY FOSTER, a/k/a "Chinch," in Washington, D.C.

44. In and about July or August, 1974, the defendant YVONNE ALVAREZ SCHENNAULT traveled to Miami, Florida.

45. In and about the Fall of 1974, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," and ANGEL RODRIGUEZ, a/k/a "Angelo," sold approximately 20 kilograms of cocaine in Miami, Florida.

46. In and about the Fall of 1974, the defendant YVONNE ALVAREZ SCHENNAULT purchased approximately 15 kilograms of cocaine in Miami, Florida.

47. In and about March, 1975, the defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," had a conversation with another person.

(Title 21, United States Code, Sections 173, 174, 846, 963.)

COUNT TWO

The Grand Jury further charges:

From on or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, and elsewhere, JUAN ANTONIO ALVAREZ, a/k/a "Tony," the defendant, unlawfully, wilfully, intentionally and knowingly did engage in a continuing criminal enterprise in that he unlawfully, wilfully, intentionally and knowingly did violate Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) as alleged in Counts Four, Five, Six and Seven of this indictment, which are incorporated by reference herein, and did commit other violations of said statutes, which violations were part of a continuing series of violations of said statutes undertaken by the defendant in concert with five or more other persons, with respect to whom the defendant JUAN ANTONIO ALVAREZ, a/k/a "Tony," occupied a position of organizer, supervisor and manager, and from which continuing series of violations the defendant JUAN ANTONIO ALVAREZ, a/k/a "Tony," obtained substantial income and resources.

(Title 21, United States Code, Section 848.)

COUNT THREE

The Grand Jury further charges:

From on or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, and elsewhere, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, wilfully, intentionally and knowingly did engage in a continuing criminal enterprise in that he unlawfully, wilfully, intentionally and knowingly did violate Title 21, United States Code, Sections 841(a)(1) and 841 (b)(1)(A) as alleged in Counts Eight, Nine, Ten and Eleven of this indictment, which are incorporated by reference herein, and did commit other violations of said statutes, which violations were part of a continuing series of violations of said statutes undertaken by the defendant in concert with five or more other persons, with respect to whom the defendant FRANK MOTEN, a/k/a "Uncle," occupied a position of organizer, supervisor and manager and from which continuing series of violations the defendant, FRANK MOTEN, a/k/a "Uncle," obtained substantial income and resources.

(Title 21, United States Code, Section 848.)

COUNT FOUR

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA a/k/a "Luis" the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT FIVE

The Grand Jury further charges:

In and about October, 1972, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT SIX

The Grand Jury further charges:

In and about January, 1973, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 18 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT SEVEN

The Grand Jury further charges:

In and about the Summer of 1973, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812
841(a)(1) and 841(b)(1)(A), Title 18, United
States Code, Section 2.)

COUNT EIGHT

The Grand Jury further charges:

In and about September, 1972, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT NINE

The Grand Jury further charges:

In or about October, 1972, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

DJ:bg
d-195

COUNT TEN

The Grand Jury further charges:

In and about January, 1973, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT ELEVEN

The Grand Jury further charges:

In and about April, 1973, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWELVE

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B.," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 4 kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

DB:bg
d-195

COUNT THIRTEEN

The Grand Jury further charges:

In and about December, 1971, in the Southern District of New York, JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO, STEVEN DELLACAVA, a/k/a "Beansie," YVONNE ALVAREZ SCHENNAULT, AL WILLIAMS, a/k/a "Big Al from Chicago" and DONALD O'DOOD, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 3 kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 13, United States Code, Section 2.)

COUNT FOURTEEN

The Grand Jury further charges:

In and about March or April, 1972, in the Southern District of New York, JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO, and STEVEN DELLACAVA, a/k/a "Beansie," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-half kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT FIFTEEN

The Grand Jury further charges:

In and about April, 1972, in the Southern District of New York, YVONNE ALVAREZ SCHENNAULT, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

DB:bg
d-195

COUNT SIXTEEN

The Grand Jury further charges:

In and about November, 1971, in the Southern District of New York, AL WILLIAMS a/k/a "Big Al From Chicago," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-quarter kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT SEVENTEEN

The Grand Jury further charges:

In and about September, 1972, in the Southern District of New York, AL WILLIAMS, a/k/a "Big Al From Chicago," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT EIGHTEEN

The Grand Jury further charges:

In and about November, 1972, in the Southern District of New York, DON WILSON, a/k/a "Don from South Carolina," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately 10 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT NINETEEN

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, WILLIAM HIGHTOWER, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY

The Grand Jury further charges:

In and about January, 1972, in the Southern District of New York, WILLIAM HIGHTOWER, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, Schedule I and II narcotic drug controlled substances to wit, approximately one-eighth kilogram of heroin and one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-ONE

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, WILLIAM HIGHTOWER, and SIDNEY FOSTER, a/k/a "Chinch," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWENTY-TWO

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, WILLIAM HIGHTOWER and LOIS SAMPSON, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately three-eighths kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWENTY-THREE

The Grand Jury further charges:

In and about May, 1973, in the Southern District of New York, WILLIAM HIGHTOWER, SIDNEY FOSTER, a/k/a "Chinch" and MICHAEL PARKER, the defendants, unlawfully, intentionally, and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2).

COUNT TWENTY-FOUR

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, JOSEPH SAMPSON, a/k/a "Bootnose" and LOIS SAMPSON, the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWENTY-FIVE

The Grand Jury further charges:

In and about June, 1972 in the Southern District of New York, JOSEPH SAMPSON, a/k/a "Bootnose," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-SIX

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, LOIS SAMPSON, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-SEVEN

The Grand Jury further charges:

In and about December, 1972 in the Southern District of New York, ANN REYNOLDS, a/k/a Lois' sister, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-EIGHT

The Grand Jury further charges:

In and about May, 1971, in the Southern District of New York, TOMMY DAVIS a/k/a "Bipty," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-NINE

The Grand Jury further charges:

In and about December, 1971, in the Southern District of New York, TOMMY DAVIS, a/k/a "Bipty," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-quarter kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY

The Grand Jury further charges:

In and about November, 1971, in the Southern District of New York, JAMES LAWS, a/k/a "Tobe the Robe," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-ONE

The Grand Jury further charges:

In and about May, 1971 in the Southern District of New York, SOLON CLAZE, a/k/a "Solo," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately two ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-TWO

The Grand Jury further charges:

In and about May, 1971, in the Southern District of New York, JOHN MORRIS, a/k/a "Papers," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately two ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-THREE

The Grand Jury further charges:

In and about September, 1972, in the Southern District of New York, J.P. MORGAN, a/k/a "J.P." the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 2 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-FOUR

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, LAWRENCE J. MITCHELL, a/k/a "L.J." the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-FIVE

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, MARION DUNMORE, a/k/a "Toni," a/k/a "Shi's Woman," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-SIX

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, CHARLES COWTERS, a/k/a "Shi," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

DJ:F
3-195

COUNT THIRTY-SEVEN

The Grand Jury further charges:

In and about November, 1971, in the Southern District of New York, ALBERT LEE JONES, a/k/a "Al from Norfolk," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately two ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-EIGHT

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, JULEN KELLEM, a/k/a "Pam," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY-NINE

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a "Little Michael," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately eight ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT FORTY

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a, "Little Michael," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately ten ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

Foreman

ROBERT B. FISKE, JR.
United States Attorney

TS:ce
n-2368

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----------------------------------x

UNITED STATES OF AMERICA :

-v- :

JUAN ANTONIO ALVAREZ, a/k/a "Tony,":
ANGEL RODRIGUEZ, a/k/a "Angelo,"
JOSE LUIS SUREDA, a/k/a "Luis," :
FRANK MOTEN, a/k/a "Uncle,"
SEBASTIAN INTERSIMONE, a/k/a :
"Benny," a/k/a "Mr. B,"
JOHN CAPRA, a/k/a "Johnny Looks," :
LEOLUCA GUARINO,
STEVEN DELLACAVA, a/k/a "Beansie," :
WILLIAM HIGHTOWER,
SIDNEY FOSTER, a/k/a "Chinch," :
JOSEPH SAMPSON, a/k/a "Bootnose,"
LOIS SAMPSON, :
ANN REYNOLDS, a/k/a "Lois's
Sister," :
MICHAEL PARKER,
YVONNE ALVAREZ SCHEMIAULT, :
AL WILLIAMS, a/k/a "Big Al from
Chicago," :
DONALD O'HOOD,
DON WILSON, a/k/a "Don from South :
Carolina,"
JAMES LAWS, a/k/a "Tobe the Robe," :
TOMMY DAVIS, a/k/a "Bipty,"
BERNARD BRIGHTMAN, a/k/a "Babe," :
JOHN MORRIS, a/k/a "Papers,"
LAWRENCE MITCHELL, a/k/a "L.J.," :
SOLON CLAZE, a/k/a "Solo,"
RAFAEL BONILLA, a/k/a "Spanish :
Michael," a/k/a "Little Michael,"
CHARLES COMPERS, a/k/a "Shi," :
MARION DUNMORE, a/k/a "Toni,"
ALBERT LEE JONES, a/k/a "Al from :
Norfolk,"
HELEN KELLIN, a/k/a "Pam," :
JOHN P. MORGAN, a/k/a "J.P.,"
NELSON ALVAREZ, a/k/a "Tony's :
Brother,"
EDUARDO YAUJAR, a/k/a "Angelo's :
Uncle,"
LAZARO YAUJAR, a/k/a "Angelo's :
Cousin,"

Defendants. :

-----------------------------------x

Redacted
INDICTMENT

76 Cr. 324

COUNT ONE

The Grand Jury charges:

1. From on or about January 1, 1968, and continuously thereafter up to and including the date of the filing

TS:jp
M-2568

of this indictment, in the Southern District of New York, and elsewhere,

JUAN ANTONIO ALVAREZ, a/k/a "Tony,"
ANGEL RODRIGUEZ, a/k/a "Angelo,"
JOSE LUIS SUREDA, a/k/a "Luis,"
FRANK MOTEN, a/k/a "Uncle,"
SEBASTIAN INTERSIMONE, a/k/a
"Benny," a/k/a "Mr. B,"
JOHN CAPRA, a/k/a "Johnny Hooks,"
LEOLUCA GUARINO,
STEVEN DELLACAVA, a/k/a "Beansie,"
WILLIAM HIGHTOWER,
SIDNEY FOSTER, a/k/a "Chinch,"
JOSEPH SAMPSON, a/k/a "Bootnose,"
LOIS SAMPSON,
ANN REYNOLDS, a/k/a "Lois's
Sister,"
MICHAEL PARKER,
YVONNE ALVAREZ SCHENNAULT,
AL WILLIAMS, a/k/a "Big Al from
Chicago,"
DONALD O'DOOD,
DON WILSON, a/k/a "Don from South
Carolina,"
JAMES LAWS, a/k/a "Tobe the Robe,"
TOMMY DAVIS, a/k/a "Dipty,"
BERNARD BRIGHTMAN, c/k/a "Nabe,"
JOHN MORRIS, a/k/a "Papers,"
LAURENCE MITCHELL, a/k/a "L.J.,"
SOLON GLAZE, a/k/a "Solo,"
RAPHAEL BONILLA, a/k/a "Spanish
Michael," a/k/a "Little Michael,"
CHARLES COMPHES, a/k/a "Shi,"
MARION DUNMORE, a/k/a "Toni,"
ALBERT LEE JONES, a/k/a "Al from
Norfolk,"
HELEN KELLIN, a/k/a "Pam,"
JOHN P. MORGAN, a/k/a "J.P.,"
NELSON ALVAREZ, a/k/a "Tony's
Brother,"
EDUARDO YAUJAR, a/k/a "Angelo's
Uncle,"
LAZARO YAUJAR, a/k/a "Angelo's
Cousin,"

the defendants, and others to the Grand Jury known and unknown, unlawfully, wilfully and knowingly, combined, conspired, confederated and agreed together and with each other, to violate the narcotics laws of the United States, specifically, Sections 173, 174, 812, 841(a)(1) and 841(b)(1)(A), 951, 952 and 960 of Title 21, United States Code.

THE OBJECTS OF THE CONSPIRACY

2. It was part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully and knowingly would import and bring into the United States large amounts of narcotic drugs, specifically heroin and cocaine, from and through countries unknown in South America and other places, in violation of Sections 173, 174, 951, 952 and 960 of Title 21, United States Code.

3. It was a further part of the conspiracy charged herein that the said defendants and co-conspirators, unlawfully, wilfully and knowinlgy would receive, conceal, keep, sell and facilitate the transportation, concealment and sale of narcotic drugs, specifically heroin and cocaine, after these narcotic drugs had been imported and brought into the United States contrary to law, knowing that these narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

4. It was a further part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully, intentionally and knowingly, would distribute and possess with intent to distribute heroin and cocaine, which are classified under law as Schedule I and II narcotic drug controlled substances, in violation of Sections 312, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code..

THE MEANS USED BY THE DEFENDANTS AND CO-CONSPIRATORS TO ACCOMPLISH THE OBJECTS OF THE CONSPIRACY

5. Among the means whereby the defendants and co-conspirators would and did carry out the objects of said conspiracy, and insure the success of the unlawful venture to import, buy, sell and distribute narcotic drugs for profit, were the following:

(a) The conspiracy took the form of a loose-knit business organization with members of the conspiracy operating at three basic levels. At the first level, some of the defendants and co-conspirators served as importers and sources of supply of narcotic drugs. At the second level, other members of the conspiracy acted as middlemen, purchasing narcotic drugs, in wholesale quantities directly from the suppliers. In turn, these middlemen sold heroin and cocaine in multi-kilogram quantities to defendants and co-conspirators at the third level who, in turn, distributed these drugs to their respective customers. Certain of the other defendants and co-conspirators performed specialized functions which were essential to the success of the overall conspiracy. In this fashion, a chain of distribution was established for this narcotics-trafficking business leading from sources of heroin and cocaine through middlemen, wholesalers and retailers and ultimately to narcotic addicts and users in New York City, Washington, D.C., Chicago, Illinois, Miami, Florida, and other cities in the United States.

(b) During the course of the said conspiracy the said defendants played the following roles in this conspiracy:

Importers and Sources of Supply

(1) Defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," were importers and suppliers of cocaine, doing business in New York City and Miami, Florida, who between 1963 and 1974 sold approximately 70 kilograms of cocaine each year.

(2) Defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," was a supplier of heroin, doing business in New York City.

(3) Defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," were suppliers of heroin, doing business in New York City, who between 1970 and 1973 sold kilogram quantities of heroin each month.

Wholesale Middlemen

(4) John Brown, a/k/a "Jack," named herein as a co-conspirator, but not as a defendant, was a bulk purchaser of heroin and cocaine from the importers and sources of supply.

(5) Defendant FRANK MOTEN, a/k/a "Uncle," was an advisor to John Brown, a/k/a "Jack," delivered narcotic drugs to Brown and received drugs from him, introduced certain defendants and co-conspirators to Brown for the purpose of purchasing drugs, vouched for them as reliable persons, financed the narcotic operations of several of the defendants and co-conspirators, engaged in financial dealings for Brown and other of the defendants and co-conspirators, and shared in the profits of the conspiracy.

(6) Defendant MICHAEL PARKER delivered narcotic drugs on several occasions to several of the defendants and co-conspirators.

Wholesale Traffickers

(7) Defendants WILLIAM HIGHTOWER, SIDNEY FOSTER, a/k/a "Chinch," JOSEPH SAMPSON, a/k/a "Bootnose," and LOIS SAMPSON, purchased and resold kilogram quantities of heroin and cocaine while doing business in Washington, D.C. and New York City.

(8) Defendants YVONNE ALVAREZ SCHERRAULT, AL WILLIAMS, a/k/a "Big Al from Chicago," and DONALD O'DOOD purchased and resold kilogram quantities of heroin and cocaine while doing business in Chicago, Illinois, Miami,Florida and New York City.

TS:jm
n-2868

(9) Defendants DON WILSON, a/k/a "Don from South Carolina," JAMES LAWS, a/k/a "Tobe the Robe," TOMMY DAVIS, a/k/a "Bipty," BERNARD BRIGHTMAN, a/k/a "Babe," JOHN MORRIS, a/k/a "Papers," LAWRENCE MITCHELL, a/k/a/ "L.J.," SOLON GLAZE, a/k/a "Solo," RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a "Little Michael," CHARLES COWPERS, a/k/a "Shi," MARION DUNMORE, a/k/a "Toni," ALBERT LEE JONES, a/k/a "Al from Norfolk," HELEN KELLEM, a/k/a "Pam," ANN REYNOLDS, a/k/a "Lois's Sister," and JOHN P. MORGAN, a/k/a "J.P.," purchased and resold kilogram quantities of cocaine and, with respect to certain of the defendants and co-conspirators, heroin while doing business in New York City and, in certain cases, in various cities in New Jersey.

Other Defendants

(10) Defendant NELSON ALVAREZ, a/k/a "Tony's Brother," built secret compartments in various locations in Florida where he and his brother, defendant JUAN ANTONIO ALVAREZ, a/k/a "Tony," hid large amounts of cocaine and money related to narcotics transactions.

(11) Defendants NELSON ALVAREZ, a/k/a "Tony's Brother," EDUARDO YAUJAR, a/k/a "Angelo's Uncle," and LAZARO YAUJAR, a/k/a "Angelo's Cousin," picked up money as payment for narcotics and delivered it to defendants JUAN ANTONIO ALVAREZ, a/k/a/ "Tony," and ANGEL RODRIGUEZ, a/k/a "Angelo."

(12) Other co-conspirators, not named herein as defendants, served respectively during the course of the said conspiracy as suppliers of narcotic drugs and as purchasers and resellers of narcotic drugs, in various cities in the United States.

(c) The importers, wholesalers and retailers of heroin and cocaine who were the members of this conspiracy knew that their actions were inextricably linked to and aided by the actions of co-conspirators and, because of the scope of the venture, knew that others were involved in the performance of functions vital to the overall success of the business. Accordingly, each level of the operation depended for its success upon the existence of the others.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

1. In and about October, 1968, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York, New York.

2. Thereafter, in and about November, 1968, the defendants SOLON GLAZE, a/k/a "Solo," LAWRENCE MITCHELL, a/k/a "L.J.," JOHN MORRIS, a/k/a "Papers," and JOSEPH SAMPSON a/k/a "Bootnose," purchased cocaine in New York, New York.

3. In and about 1968, the defendants AL WILLIAMS, a/k/a "Big Al from Chicago," DONALD O'DOOD, and another person purchased approximately three kilograms of heroin in New York, New York.

4. In and about March or April, 1969 the defendants ANGEL RODRIGUEZ, a/k/a "Angelo," and LUIS SUREDA, a/k/a "Luis," sold approximately 20 kilograms of cocaine in New York, New York.

5. In and about 1969 the defendant SIDNEY FOSTER a/k/a "Chinch," traveled to New York approximately four times each month to pick up eighth-kilogram quantities of heroin and cocaine for the defendant WILLIAM HIGHTOWER.

6. In and about 1969, the defendant FRANK MOTEN, a/k/a "Uncle," received large amounts of money in New York City.

7. In and about February, 1970, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," had a conversation in Madison Square Garden in New York City.

8. In and about October 1970, the defendants FRANK MOTEN, a/k/a "Uncle," JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," WILLIAM HIGHTOWER, TOMMY DAVIS, a/k/a "Bipty," JOSEPH SAMPSON, a/k/a "Bootnose," LOIS SAMPSON, and MICHAEL PARKER, met in Atlanta, Georgia.

9. In and about May, 1971, the defendant FRANK MOTEN, a/k/a "Uncle," delivered money to the defendant SOLON GLAZE, a/k/a "Solo," to be used in the purchase of narcotics.

10. In and about 1971 the defendant FRANK MOTEN, a/k/a "Uncle," delivered money to the defendant JOHN MORRIS, a/k/a "Papers," to be used in the purchase of narcotics.

11. In and about the Fall of 1971 the defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," sold approximately four kilograms of heroin in New York, New York.

12. Thereafter, in and about the Fall of 1971, the defendants WILLIAM HIGHTOWER, JOSEPH SAMPSON, a/k/a "Bootnose," and LOIS SAMPSON, purchased heroin in New York, New York.

13. In and about the fall of 1971, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York, New York.

14. In and about November, 1971, the defendant JAMES LAWS, a/k/a "Tobe the Robe," purchased approximately one kilogram of cocaine in New York, New York.

TS:jm
n-2863

15. In and about December 1971, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," sold approximately three kilograms of heroin to the defendants YVONNE ALVAREZ SCHERHAULT, AL WILLIAMS, a/k/a "Big Al from Chicago," and DONALD O'DOOD, in New York City for $27,000 per kilogram.

16. In and about March or April, 1972, the defendants JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO and STEVEN DELLACAVA, a/k/a "Beansie," delivered a quantity of heroin in New York, New York.

17. In and about June, 1972 the defendant FRANK MOTEN, a/k/a "Uncle," had a telephone conversation with another person.

18. In and about September, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," told another person that he would be responsible for all debts arising from the cocaine purchases of the defendant BERNARD BRIGHTMAN, a/k/a "Nabe."

19. In an about September, 1972, the defendant BERNARD BRIGHTMAN, a/k/a "Nabe," purchased approximately one-eighth kilogram of cocaine in New York, New York.

20. In and about September, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," sold approximately one kilogram of cocaine in New York, New York.

21. In and about October, 1972, the defendant FRANK MOTEN, a/k/a "Uncle," sold approximately one kilogram of cocaine in New York, New York.

22. In an about November, 1972, the defendant DON WILSON, a/k/a "Don from South Carolina," received approximately ten kilograms of cocaine in Orangeburg, New York.

23. In and about December, 1972, the defendant LOIS SAMPSON received approximately one kilogram of cocaine in Orangeburg, New York.

TS:jn
n-2868

24. In and about December, 1972, the defendant ANN REYNOLDS, a/k/a "Lois's Sister," received approximately one kilogram of cocaine in Orangeburg, New York.

25. In and about January, 1973, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 18 kilograms of cocaine in New York, New York.

26. In and about January, 1973, the defendant BERNARD BRIGHTMAN, a/k/a "Nabe," received a quantity of cocaine in Orangeburg, New York.

27. In and about 1973, the defendant LOIS SAMPSON delivered approximately three-eighths kilogram of cocaine to the defendant WILLIAM HIGHTOWER in Washington, D.C.

28. In and about February, 1973, the defendant LAWRENCE J. MITCHELL, a/k/a "L.J.," received approximately one kilogram of cocaine in New York, New York.

29. In and about February, 1973, the defendant CHARLES COWPERS, a/k/a "Shi," received approximately one-eighth kilogram of cocaine in New York, New York.

30. On or about April 13, 1973, the defendant STEVEN DELLACAVA, a/k/a "Beansie," agreed to deliver one kilogram of heroin in New York, New York.

31. On or about April 13, 1973 the defendant STEVEN DELLACAVA, a/k/a "Beansie," had in his possession approximately $14,000.

32. In and about April, 1973, the defendants FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," received approximately one-half kilogram of cocaine at 135 West 96th Street, New York, New York.

33. In and about the summer of 1973, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," sold approximately 15 kilograms of cocaine in New York City.

TS:jm
M-2068

34. Thereafter, in and about the summer or fall of 1973, the defendant YVONNE ALVAREZ SCHERMAULT purchased approximately 12 kilograms of cocaine in New York, New York.

35. In and about February, 1974, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony" and ANGEL RODRIGUEZ, a/k/a "Angelo" sold approximately 13 kilograms of cocaine in Miami, Florida.

36. In and about February or March, 1974, the defendant YVONNE ALVAREZ SCHERMAULT purchased approximately 10 kilograms of cocaine in Miami, Florida.

37. In and about February or March, 1974, the defendants FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Babe," purchased approximately 2 kilograms of cocaine in Miami, Florida.

38. In and about March or April, 1974, the defendant DON WILSON, a/k/a "Don from South Carolina," purchased approximately one kilogram of cocaine in Miami, Florida.

39. In and about March or April, 1974, the defendant MICHAEL PARKER purchased cocaine in Miami, Florida.

40. In and about April or May, 1974, the defendants, JUAN ANTONIO ALVAREZ, a/k/a "Tony" and ANGEL RODRIGUEZ, a/k/a "Angelo," sold approximately 20 kilograms of cocaine in Miami, Florida.

41. In and about April or May, 1974, the defendant YVONNE ALVAREZ SCHERMAULT purchased approximately 14 kilograms of cocaine in Miami, Florida.

42. In and about May 1974, the defendant DON WILSON a/k/a "Don from South Carolina," met with the defendant Michael Parker and another person in Miami, Florida.

TS:eu
[illegible]

43. In and about May and June, 1974, the defendant MICHAEL PALMER sold cocaine to the defendants WILLIAM HIGHTOWER and SIDNEY FOSTER, a/k/a "Chinch," in Washington, D.C.

44. In and about July or August, 1974, the defendant YVONNE ALVAREZ SCHENNAULT traveled to Miami, Florida.

45. In and about the Fall of 1974, the defendants JUAN ANTONIO ALVAREZ, a/k/a "Tony," and ANGEL RODRIGUEZ, a/k/a "Angelo," sold approximately 20 kilograms of cocaine in Miami, Florida.

46. In and about the Fall of 1974, the defendant YVONNE ALVAREZ SCHENNAULT purchased approximately 15 kilograms of cocaine in Miami, Florida.

47. In and about March, 1975, the defendant SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B," had a conversation with another person.

(Title 21, United States Code, Sections 173, 174
846, 963.)

COUNT TWO

The Grand Jury further charges:

From on or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, and elsewhere, JUAN ANTONIO ALVAREZ, a/k/a "Tony," the defendant, unlawfully, wilfully, intentionally and knowingly did engage in a continuing criminal enterprise in that he unlawfully, wilfully, intentionally and knowingly did violate Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) as alleged in Counts Four, Five, Six and Seven of this Indictment, which are incorporated by reference herein, and did commit other violations of said statutes, which violations were part of a continuing series of violations of said statutes undertaken by the defendant in concert with five or more other persons, with respect to whom the defendant JUAN ANTONIO ALVAREZ, a/k/a "Tony," occupied a position of organizer, supervisor and manager, and from which continuing series of violations the defendant JUAN ANTONIO ALVAREZ a/k/a "Tony," obtained substantial income and resources.

(Title 21, United States Code, Section 848.)

COUNT THREE

The Grand Jury further charges:

From on or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, and elsewhere, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, wilfully, intentionally and knowingly did engage in a continuing criminal enterprise in that he unlawfully, wilfully, intentionally and knowingly did violate Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) as alleged in Counts Eight, Nine, Ten and Eleven of this indictment, which are incorporated by reference herein, and did commit other violations of said statutes, which violations were part of a continuing series of violations of said statutes undertaken by the defendant in concert with five or more other persons, with respect to whom the defendant FRANK MOTEN, a/k/a "Uncle," occupied a position of organizer, supervisor and manager and from which continuing series of violations the defendant, FRANK MOTEN, a/k/a "Uncle," obtained substantial income and resources.

(Title 21, United States Code, Section 848.)

AS:ev
n-2565

COUNT FOUR

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA a/k/a "Luis" the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT FIVE

The Grand Jury further charges:

In and about October, 1972, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionallly and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT SIX

The Grand Jury further charges:

In and about January, 1973, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 18 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

TS:jm
n-2668

COUNT SEVEN

The Grand Jury further charges:

In and about the Summer of 1973, in the Southern District of New York, JUAN ANTONIO ALVAREZ, a/k/a "Tony," ANGEL RODRIGUEZ, a/k/a "Angelo," and JOSE LUIS SUREDA, a/k/a "Luis," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT EIGHT

The Grand Jury further charges:

In and about September, 1972, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT NINE

The Grand Jury further charges:

In or about October, 1972, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TEN

The Grand Jury further charges:

In and about January, 1973, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT ELEVEN

The Grand Jury further charges:

In and about April, 1973, in the Southern District of New York, FRANK MOTEN, a/k/a "Uncle," and BERNARD BRIGHTMAN, a/k/a "Nabe," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWELVE

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, SEBASTIAN INTERSIMONE, a/k/a "Benny," a/k/a "Mr. B.," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 4 kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

TS:ee
L-2568

COUNT THIRTEEN

The Grand Jury further charges:

In and about December, 1971, in the Southern District of New York, JOHN CAPRA, a/k/a "Johnny Hooks," LEOLUCA GUARINO, STEVEN DELLACAVA, a/k/a "Beansie," YVONNE ALVAREZ SCHMMAULT, AL WILLIAMS, a/k/a "Big Al from Chicago" and DONALD O'GOOD, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 3 kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT FOURTEEN

The Grand Jury further charges:

In and about April, 1973, in the Southern District of New York, YVONNE ALVAREZ SCHMMAULT, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-half kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT FIFTEEN

The Grand Jury further charges:

In and about November, 1972, in the Southern District of New York, DON WILSON, a/k/a "Don from South Carolina," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately 10 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

[illegible]
[illegible]

COUNT SIXTEEN

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, WILLIAM HIGHTOWER, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT SEVENTEEN

The Grand Jury further charges:

In and about January, 1972, in the Southern District of New York, WILLIAM HIGHTOWER, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, Schedule I and II narcotic drug controlled substances to wit, approximately one-eighth kilogram of heroin and one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT EIGHTEEN

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, WILLIAM HIGHTOWER, and SIDNEY FOSTER, a/k/a "Chinch," the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT NINETEEN

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, WILLIAM HIGHTOWER and LOIS SAMPSON, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately three-eighths kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWENTY

The Grand Jury further charges:

In and about the Fall of 1971, in the Southern District of New York, JOSEPH SAMPSON, a/k/a "Bootnose" and LOIS SAMPSON, the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT TWENTY-ONE

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, LOIS SAMPSON, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-TWO

The Grand Jury further charges:

In and about May, 1971, in the Southern District of New York, TOMMY DAVIS, a/k/a "Bipty," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

[illegible]
L-2[illegible]3

COUNT TWENTY-THREE

The Grand Jury further charges:

In and about December, 1971, in the Southern District of New York, TONY DAVIS, a/k/a "Fifty," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-quarter kilogram of cocaine.

(Title 21, United States Code, Sections
812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-FOUR

The Grand Jury further charges:

In and about November, 1971, in the Southern District of New York, JAMES LEWIS, a/k/a "Tobe the Pobe," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-FIVE

The Grand Jury further charges:

In and about May, 1971, in the Southern District of New York, JOHN MORRIS, a/k/a "Papers," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately two ounces of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-SIX

The Grand Jury further charges:

In and about September, 1972, in the Southern District of New York, J.P. MORGAN, a/k/a "J.P." the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 2 kilograms of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-SEVEN

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, LAWRENCE J. MITCHELL, a/k/a "L.J." the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-EIGHT

The Grand Jury further charges:

In and about February, 1973, in the Southern District of New York, CHARLES COMPERS, a/k/a "Shi," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately one-eighth kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWENTY-NINE

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, RAPHAEL BONILLA, a/k/a "Spanish

Michael," a/k/a, "Little Michael," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately eight ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTY

The Grand Jury further charges:

In and about December, 1972, in the Southern District of New York, RAPHAEL BONILLA, a/k/a "Spanish Michael," a/k/a, "Little Michael," the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately ten ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

/s/ CLARA L. WATSON
Foreman

/s/ ROBERT B. FISKE, JR.
ROBERT B. FISKE, JR.
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------------------------------x

UNITED STATES OF AMERICA,

-against-

JUAN ANTONIO ALVAREZ, et al.,

Defendants.

---------------------------------x

76 Cr. 324

MEMORANDUM AND ORDER

44578

FILED
U S DISTRICT COURT
JUN 16 2 15 PM '76
S.D. OF N.Y.

OWEN, District Judge

The Government has specified in its memorandum of law 17 matters as to which it is prepared to accede as each defendant without the necessity of a motion, those 17 matters being as follows:

1. Permit discovery by each defendant of his or her own post-arrest statements to law enforcement officials, if any;

2. Permit discovery by each defendant of his or her own relevant written and recorded statements within the possession, custody or control of the Government, the existence of which is known by the attorneys for the Government prosecuting this case, or which, by the exercise of due diligence, may become known;

3. Permit discovery by each defendant of his or her FBI arrest sheet; in the event the Government learns of other arrests not appearing on the arrest sheet, the Government will make such information known;

4. Results and reports of all scientific tests or experiments made by the Government in connection with this case, including but not limited to laboratory analyses of narcotics, handwriting, fingerprints and ballistics;

5. The Government will furnish counsel with a list of seizures yielding evidence which

may be offered at trial, and indicating whether said seizure was made pursuant to a warrant, among other grounds; all material seized from a particular defendant will be available for inspection by his counsel at a mutually convenient date;

6. The Government will make available at a mutually convenient time copies of photographs and spreads shown to witnesses prior to trial;

7. All material, as defined in Rule 16(a)(1)(c) will be made available for inspection, upon request, on or after June 14, 1976, at a time to be determined by the Government after discussion with counsel;

8. The Government will disclose to each defendant whether said defendant was the subject of, or recorded on, electronic surveillance as known to the attorneys prosecuting this case; in such event, copies of orders and affidavits relating to such surveillance will be made available upon request;

9. Government transcripts of recorded conversations will be made available when completed, where the Government intends to put such transcript before the jury as an aide memoire;

10. The Government will provide each defendant with a bill of particulars limited to particularization of time, place and date, as known, for all overt acts in count one and for all substantive offenses numbered 4-40; the Government will also furnish a list of known co-conspirators relative to count one;

11. The Government will disclose all information and material of an exculpatory nature required to be disclosed under Brady, as the Government understands that obligation;

12. Arrest sheets for all witnesses will be made available as part of 3500 material;

13. As to the defendant Schennault, the defendant's middle name is stricken from the indictment;

14. With regard to Counts Two and Three the Government will furnish, in the bill of particulars, the names of five or more persons as against whom the Government contends the named defendant occupied a position of organizer supervisor or manager;

15. Surveillance photographs and motion pictures made in connection with this case;

16. The Government shall have Grand Jury minutes transcribed;

17. The Government shall furnish to each defendant the substance of any oral statement which the Government intends to offer at trial made by said defendant before or after arrest in response to interrogation by any person then known to the defendant to be a government agent.

The foregoing Government concession is made the order of this Court, and the Government is to forthwith comply therewith.

June 15, 1976.

United States District Judge

Copy

U.S. DISTRICT COURT
FILED
JUN 29 1976
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----------------------------------x

UNITED STATES OF AMERICA,

Plaintiff,

76 Cr. 324

-against-

JUAN ANTONIO ALVAREZ, et al.,

#44673

Defendants.

-----------------------------------x

OWEN, District Judge

Numerous of the thirty-three defendants in this narcotics indictment have moved to sever on the ground that there can be no single conspiracy here and that a joint trial would be prejudicial.

The motions require me to make a pretrial assessment in an area that has caused much discussion even after trial. I have studied the indictment and reviewed the grand jury minutes as requested by the parties. In the light of the various authorities that have been cited to me, I hereby sever defendants John Capra, Steven Dellacava and Leoluca Guarino collectively for later trial. Beyond the foregoing, all motions to sever are denied.

So Ordered.

June 24, 1976.

United States District Judge

Copy

U.S. DISTRICT COURT
FILED
JUL 15 1976
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-------------------------------------x

UNITED STATES OF AMERICA,
Plaintiff,
-against-
JUAN ANTONIO ALVAREZ, et al.,
Defendants.

-------------------------------------x

76 Cr. 324
76-1450

MEMORANDUM AND ORDE

44760

OWEN, District Judge

I have now considered all motions of such defendants as moved for discovery and inspection and bills of particulars. Except to the extent that discovery and inspection was permitted and bills of particulars directed to be furnished by my order of June 15, 1976, all such motions are denied.

Certain defendants moved for psychiatric information bearing upon anticipated government witnesses. I do not find that any defendant has made a showing compelling this relief. Given this, I do not reach the more difficult question which is, assuming that a psychiatric report or reports exists as to a prospective witness, wheth the court has the right, at this time, without the "patie being before me, to breach any patient-physician privileg that may exist. *See* *U.S. v. Evans*, 454 F.2d 813, 820 (8th Cir.), *cert. denied*, 406 U.S. 969 (1972).

The foregoing is so ordered.

July 14, 1976.

United States District Judge

Copy

FILED
JUL. 26

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

--------------------------------------x

UNITED STATES OF AMERICA, :

Plaintiff, : 76 Cr.324

-against- :

JUAN ANTONIO ALVAREZ, et al., : MEMORANDUM AND ORDER

Defendants. : 44768

--------------------------------------x

OWEN, District Judge

I. Disclosure of Government Witnesses and Cooperating Defendants.

Various defendants have moved for disclosure of the identity of government witnesses. In United States v. Cannone, 528 F.2d 296 (1975), this Circuit held that "where a specific showing of need for concealment by the government was not challenged by a specific showing of need for disclosure by the defendant," the trial court did not have the discretion to order disclosure. Id. at 302. I conclude here that defendants have failed to make a sufficiently specific showing of need for disclosure, and, in any event, the government has shown a need for concealment.

Defendants argue that even if disclosure of witnesses should not be generally required, the government should, at the least, disclose the identity of witnesses in protective custody. But again, there is not a specific showing of need. And I am unable to conclude that simply because a witness is in protective custody, the danger of intimidation or other interference is substantially alleviated. The government has consented to convey requests for interviews to witnesses in protective custody and, if consent is given by the witness, to make him or her available. The government is directed to follow this procedure. All motions seeking the disclosure of government witnesses are denied.

Certain defendants have also moved to compel the disclosure of the identity of cooperating defendants. They argue that the government may receive confidential information about their trial strategy unless they know which, if any, of their codefendants are cooperating. While the prosecution may not in any way seek to intrude into an adversary's confidences, it is axiomatic that a defendant should choose his confidants with care, and does so at his peril. Further, disclosing the identity of cooperating defendants involves the same dangers as revealing the identities of witnesses. To avoid potential Sixth Amendment problems, the government has offered to advise any cooperating defendant and counsel not to attend joint meetings, and not to impart any information which may have been received since the beginning of cooperation. I direct that this be done. Defendants' motions to disclose the identity of cooperating defendants are denied.

II. Preindictment Delay.

Various defendants move to dismiss the indictment on the grounds of preindictment delay. The apparent basis for this claim is that some of the overt acts charged in the indictment date back to 1968. But defendants choose to ignore that the indictment alleges an ongoing conspiracy continuing up to the date the indictment was filed. Their position rests on the faulty assumption that once the government learns of any individual criminal acts, it must immediately commence prosecution even if the acts in question are part of an ongoing course of criminal activity. As in the case of United v. Eucker, _______ F.2d _________, Slip Op. 2459, 2463 (2d Cir. March 8, 1976), defendants have "failed to show any contrived procrastination by the Government and could point to no prejudice established beyond mere conjecture." Accordingly, the motions are denied.

III. Evidence of Prior Convictions.

Defendants Glaze, Kellem, Morris and Lois Sampson have moved for an order enjoining the government from cross-examining them about their past record. This area is governed by Federal Rule of Evidence 609 which permits the impeachment use of certain prior convictions if the "court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the defendant." None of the movants have submitted sufficient information to permit me to make that decision. Should any movant seek to pursue this issue, an individual hearing will be held at 10:00 A.M. on July 21, 1976 in Courtroom 318.

IV. Agency Search Pursuant to 18 U.S.C. § 3504.

The government has made available all wiretaps it intends to use at trial. Several defendants have moved that the court order that the government, in addition, make inquiry and affirm or deny whether they were subject to illegal surveillance. But § 3504 does not impose such requirement upon the government in every case. There must first be "a claim by a party aggrieved that evidence is inadmissible." This Circuit has held that when "assertions of misconduct are so obviously frivolous and lack even a colorable basis there is no 'claim' sufficient to trigger the government obligation within the meaning of § 3504." In re Millow, 529 F.2d 770, 774 (2d Cir. 1976). In this case, the only basis given by any defendant is the unsupported and unelaborated assertion of Rodriguez that "all evidence . . . was obtained by the exploitation of an unlawful act." This is obviously insufficient.

Accordingly, such motions are denied.

V. The Constitutionality of 21 U.S.C. § 841.

Defendant Joseph Sampson moves to dismiss on the ground that 21 U.S.C. § 841 is unconstitutional because the statutory scheme delegates to the Attorney General the power to reclassify various drugs and thus alter the penalty for conviction under the statute. Whatever the abstract merits of defendant's motion, I need not reach them here because the Attorney General has not reclassified the drugs involved in this case, and consequently there is no prospect that defendant will be in any way affected by the alleged unconstitutional delegation. United States v. Westlake, 480 F.2d 1225 (5th Cir. 1973). Accordingly, the motion is denied.

VI. Aliases.

Numerous defendants have moved to have their aliases stricken from the indictment. Although it is normally undesirable to include aliases in indictments, an exception is made when an alias is relevant to identifying the defendant. United States v. Wilkerson, 456 F.2d 57 (6th Cir.), cert. denied, 408 U.S. 926 (1972), United States v. Skolek, 474 F.2d 582 (10th Cir. 1973). The government has consented to having the alias "Shi's Woman" stricken from the indictment. This is so ordered. Upon the government's representation that inclusion of the aliases is necessary for identification, all other motions to strike are denied.

VII. Miscellaneous Motions.

Defendant Helen Kellem has moved for an order under the Criminal Justice Act directing the government to pay her transportation expenses by taxi to the courthouse upon the ground that she is physically incapacitated and consequently unable to use other modes of transportation. Upon consideration of her doctor's affidavit, her motion is granted.

Defendant Solon Glaze moves to have the indictment dismissed with respect to him on grounds of double jeopardy. The only reason he offers is that he was previously convicted on the basis of testimony by the same informer that he anticipates will testify in this case. This is clearly insufficient. Even if he was convicted of the overt act alleged in this indictment, he can still be prosecuted for conspiracy, an offense separate from individual substantive violations of the drug laws. Pinkerton v. United States, 328 U.S. 640 (1946).

Numerous other motions, not meriting individual discussion, have been filed by various defendants. Having considered them, I deny all other non-suppression motions.

So Ordered.

July 15, 1976.

United States District Judge

C/fb

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-------------------------------------x

UNITED STATES OF AMERICA, :

Plaintiff, :

-against- :

JUAN ANTONIO ALVAREZ, et al., :

Defendants. :

-------------------------------------x

76 Cr. 324

MEMORANDUM AND ORDER

4/4769

OWEN, District Judge

In order to avert any potential Bruton problems at trial, the government is ordered, pursuant to Rule 14, to deliver to the court for *in camera* inspection any confessions it intends to offer in evidence at trial, giving indication of any redactions it intends to make.

So Ordered.

July 15, 1976.

United States District Judge

United States of America
v.
Juan Antonio Alvarez, et al.

November 5, 1976,
10:40 A.M.

--

(In open court. Jury not present.)

THE COURT: Mr. Anolik, your supplemental request,while late, I have considered. I don't think A is justified on the record. I am including one line of C in toto and not giving the balance.

Mr. Krieger, I think you had no contentions you want me to give.

MR. KRIEGER: No, sir.

MR. BELLER: Your Honor, I didn't understand request C.

THE COURT: The first line.

(Jury present)

THE CLERK: This court is about to charge the jury. All persons wishing to leave may do so now. Those electing to stay may do so until the completion of the charge or any recess.

THE COURT: Good morning, ladies and gentlemen.

Now, we are at the point in this trial where you are soon to undertake your final function as jurors, and it is here, as I said to you, that you will be performing what I regard as one of the most important and valuable duties of citizenship in this country which is to act as ministers of justice in this case, and determine in accordance with the instructions that I am to give you and in accordance with the evidence that you have heard what the facts are in this case, what happened. I want to, at the very outset, not only on my behalf but on behalf of everyone in this room thank you for what I have observed as unusually careful attention under long and difficult circumstances to the witnesses, documents and the totality of the evidence you saw coming in week after week. I believe that you are fully prepared to discharge your duties in that regard.

Now, you are to do this and discharge your duties with complete fairness, complete impartiality and, as I said, when you were selected, without any bias or prejudice for or against the government or for or against any of the defendants as parties to this case.

This is an important case, obviously, to all parties as well as to the public at large. The fact that the government here is a party entitles it to no greater consideration than that given to any other party in any other lawsuit. By the same token, the government is

d2

entitled to no less consideration. All parties, whether it be the government, an individual, a corporation, a partnership or whatever, all stand as equals before you at the bar of justice.

You are to consider my charge, and it is going to be a lengthy one, you are to consider my charge in its entirety and not to take any one piece of it and focus upon that but to consider all of the elements together because there are things I may say later, which may necessarily require that you apply to that aspect, something that you have heard in an earlier part.

In passing on the facts here, which is your role, you are the sole and exclusive judges of those facts. That is not my province; it is your province. You determine the weight of the evidence, you appraise the credibility or the believability of the witnesses that you have heard, you draw such reasonable inferences from the evidence as you think warrant it, you resolve such conflicts, if any, that you find exist in the evidence. Doing this, I will later speak to you of how you can be assisted in determining these issues and determining questions of credibility or believability that you may fin

My final function as the judge in this case is to instruct you upon the law and I tell you that it is ycur duty to accept these instructions of mine and apply them to the facts as you may find them. With respect to any fact matter, it is your recollection and yours alone that governs as to what the testimony was.

As I told you I think, early in the case, anything that any attorney has said with respect to any testimony, whether during the trial in a question, in an argument, in summation or anywhere else, is not to be substituted for your recollection of the evidence. If there is any substantial question as to what that recollection is, you may have it read back to you.

During the trial, and during the summations attorneys made objections, made motions to strike various answers and they took other procedural positions in the case in your hearing. These are proper concerns of the attorneys and me as the court and do not concern you at all. You are not to draw any inference one way or another from any of these matters or how I may have ruled on any of these matters.

So, too, anything that I may have said or may say during the course of this charge, is not to be taken with regard to any matter of evidence or testimony is not to be taken in place of your recollection. I am going to refer to the record in this case during the course of

hph5

this charge. I will endeavor to refer to it as accurately as I can. But if I make a mistake, it is your recollection and yours alone that governs. You are not to take anything that I say as binding upon you as to what the testimony was or what an exhibit may show.

Now, the fact that I may refer to evidence or exhibits during the course of the charge doesn't mean that I consider the part that I refer to any more important than any other part, for all of the evidence in the case is important and you are to consider it all in your deliberation, whether I refer to it or not. You are to consider all of the contentions that the parties have made before you hear in their closing arguments, in their summations, whether or not I may specifically refer to those contention hereafter in my charge. You are to consider them all as they made them. If you wish to consider any exhibit in the case, you have only to ask for it and it will be made available to you for your consideration. You may take a copy of the indictment with you into the jury room.

You have heard a lot of rhetoric here by some counsel for defendants and the prosecution as to what the duties of the lawyers for the sides are in this trial. This case is not to be decided upon what any lawyer's duties are represented to be to you by any counsel in thi case. And in this particular situation, the United States and the lawyers' duties are essentially representations of clients. Included in those duties is putting before you reasonable arguments on behalf of the clients. If argument commends itself to you by any attorney, you may accept it. If not, you may reject it. The case is to be decided upon the evidence or lack of evidence and the reasonable inferences to be drawn from the evidence and upon the law as I shall charge you and not upon the rhetoric of any attorney from any party.

During the course of the trial I occasionally asked a witness a question. Don't assume that I hold any opinion as to any matter in this case or as to any matters as to which my questions may have related because I do not. Remember at all times you as jurors are the sole judges of the facts and must disregard all comments of the court, if any, in arriving at your own findings of the facts.

d3

Now, the defendants are only on trial for what is charged in the indictment. They are not on trial for anything that is not charged in the indictment. There has been testimony that at various times, various of the defendants have possessed cocaine for personal use or have used cocaine. I instruct you that the use or possession of cocaine for personal use is not a crime charged

d4

in this indictment. No defendant can be convicted for personal use of cocaine alone. Or, the mere fact that one may be an addict. However, such use or possession may be considered by you in your deliberations of the crimes that are actually charged in this indictment, if you deem such facts probative as to such charges.

The indictment in this case names 33 persons as defendants, and an additional number as co-conspirators but not as defendants. You are required to render a verdict here only as to 22 persons here named as defendants before you at this time. I charge you that even though Juan Antonio Alvarez has not been physically here during this trial, he is a defendant on trial before you and you are to consider and determine his guilt or innocence just as if he had been.

This case proceeded to trial against a fewer number than all of the defendants listed in the indictment for reasons for which you are not concerned and are not to be concerned at all. The case was disposed of as to some before trial for legal reasons with which you have no interest or concern. Some were separated from this trial without any disposition of the charges and as has been mentioned, defendant Sureda, Parker and Reynolds pleaded guilty. I will speak more about that later.

hph8

The jury is not to speculate on any of these facts. It must not consider the dispositions, the severances or the guilty pleas as evidence against any defendant before you nor may any adverse or favorable inference be drawn therefrom for or against any defendant who is on trial.

However, I should say in this connection Sureda, Parker and Reynolds have testified and there has been testimony in this case concerning their conduct as well as the conduct of certain severed defendants, Solon Glaze, John Capra, Guarino Dellacava, and Al Williams from Chicago. What was testified about them and by them remains before you for consideration but only to this extent: You do not consider whether they are guilty or not guilty, but you do consider the evidence that has been given as to them or by them, together with all the other evidence, facts and circumstances insofar as you may find that it concerns any defendant as to whom you are to render a verdict.

During the course of the trial there was evidence indicating that others than the defendants now on trial were allegedly involved in one way or another with the activities which are the subject of this indictment. I charge you the fact that some other people allegedly were involved but not indicted and were named as co-conspirators is to play no role in your deliberations. That fact does not affect the guilt or innocence of any defendant now on trial in any manner whatsoever. And no inference, favorable or unfavorable to either side or to any individua defendant may be drawn from the fact that other people were not indicted or if indicted are not on trial before you. It must not affect your deliberations in any way with respe to whether a defendant who is on trial is guilty or not guilty of the offenses charged against him or her. And while I am using that little phrase, I am referring to defendants, I may sometimes slip up and refer only to "him." There are both men and women on trial here and when I use the word "him" I very frequently mean him or her. It becomes a mouthful to keep saying all the time and sometimes I'm sure I will slip and I'm sure you will appreciate the meaning I have in each case.

d5 The indictment in this case contains 30 counts or charges which will be submitted to you for your verdict In substance, the first count charges all 22 defendants who are before you with wilfully and knowingly conspiring amongst themselves and with others to violate the federal narcotics laws by distributing or possessing with intent to distribute heroin and/or cocaine.

The second count pertains only to defendant

hph 10

Juan Antonio Alvarez and charges him with engaging in a continuous series of violations of federal narcotics laws with five or more persons; that Tony Alvarez was the organizer, supervisor or manager of such five or more persons and that from such activities he derived a substantial income. That's count 2.

T2 am

dws

Count 3 pertains only to defendant Frank Moten. It charges him with engaging in a continuous series of violations of Federal narcotics laws in concert with five or more persons. That Moten was the organizer, supervisor or manager of such five or more persons. I believe the charge here is only five persons. That he was supervisor or manager of such five persons and that from such activities he derived substantial income.

Counts 4 through 30 charge the persons named in each count with actually distributing or possessing with intend to distribute heroin or cocaine as the case may be. These counts are referred to from time to time by me as substantive counts to distinguish them from the conspiracy count, because unlike the conspiracy count, which is a charge of plotting or scheming or agreeing to commit offenses, these substantive counts allege the actual commission or the carrying out of such offenses.

Now before I explain each count in the indictment and the law which is particularly applicable to each there are certain essential principles of law which apply in every criminal case. I made reference to some of the when you were selected as jurors and I'm going to repeat them again to you now.

The indictment is 22 pieces of paper and is ws2

merely a charge. The indictment is not evidence of anything. It is not proof of anything. It is not proof of any defendant's guilt. On here are typed the charges that the defendants must meet. No weight whatsoever is to be given to the fact that this indictment in these pieces of paper have been returned. When the 22 defendants came before the Court first in response to this indictment each defendant pleaded not guilty to these charges that are typed on these pieces of paper. Thus the Government at all times throughout the course of this trial has had and still has and will have all the way to the end the burden of proving these charges against the defendant beyond a reasonable doubt. A defendant does not have to prove anything. He or she does not have to prove innocence. He or she does not have to prove anything at all. On the contrary a defendant is presumed to be innocent of the charges contained in this indictment. This presumption was in his or her favor at the start of the trial, continues in his or her favor throughout the trial. It is in his or her favor even as I am instructing you at this moment and remains in his or her favor throughout the course of your deliberations in the jury room.

The presumption of innocence is removed only if and only when you are satisfied that the Government has sustained its burden of proving the guilt of a defendant beyond a reasonable doubt under the charge. At that point the presumption of innocence will fall away. Now the question that comes up is what is a reasonable doubt? The words as you can see practically define themselves. It is a doubt founded upon reason and arising out of the evidence or the lack of evidence as the case may be. It is a doubt which a reasonable person has after carefully weighing all the evidence. Reasonable doubt is a doubt which appeals to your reason, to your judgment, to your common sense and your experience. Reasonable doubt is not caprice, whim, speculation, guesswork, conjecture or suspicion. Reasonable doubt is not an excuse to avoid the performance of an unpleasant duty. Reasonable doubt is not sympathy for a defendant. If after a fair and impartial consideration of all the evidence you can candidly and honestly say that you are not satisfied of the guilt of a defendant, that you do not have an abiding conviction of his guilt, then in sum if you have such a doubt as would cause you as a prudent person to hesitate before acting in matters of importance to yourself, then you have a reasonable doubt. In that circumstance it is your duty to acquit.

If on the other hand after such impartial and ws4

fair consideration of all the evidence you can candidly and honestly say that you do have an abiding conviction of the defendant's guilt such a conviction as you would be willing to act upon in important and weighty matters in the personal affairs of your own life then you have no reasonable doubt. Under such circumstances it is your duty to convict.

One final word on this subject. Reasonable doubt does not mean a positive certainty or beyond all possible doubt. If that were the rule few persons however guilty would be convicted. It is practically impossible for a person to be absolutely and completely convinced of any controverted fact which by its nature is not susceptible to proof by mathematical certainty. Thus the law in a criminal case is that it is sufficient that the guilt of the defendant is established beyond a reasonable doubt, not beyond all possible doubt.

2 As I just said before you the jury must decide this case solely upon the evidence presented here in the courtroom. There are two kinds of evidence which are recognized and admitted in courts of justice. One is called direct evidence and the other is called circumstantial evidence.

Now direct evidence is the testimony of what

dws

someone saw, heard, something that occurred in the person's presence as to which they testified before you. Circumstantial evidence is evidence where there has been proof of one fact from which you can reasonably conclude that another facts exists.

Let me give you an example that the Courts have used longer than I care to remember. Let us assume this morning when you came into the Court House the sun was shining and there were no windows out of which you could look. You took your seat in the jury box and therefore could not see outside. During the course of the morning a person comes in with a raincoat shaking drops of water off it. Another person comes in with an umbrella and similarly shakes the water off the umbrella. What you saw, the raincoat and the umbrella, are direct evidence because you saw it and observed it with your own senses. However, from that fact you may conclude that outside after you had come into the building the sun had stopped shining and it had begun to rain.

That, ladies and gentlemen is all there is to circumstantial evidence. You may conclude from a fact before you something that reasonably flows from that fact, as long as it reasonably and logically flows from that fact. Circumstantial evidence I charge you, if you credit it, is of no less weight in your deliberations than is direct evidence. Thus knowledge and intent of a defendant, though subjective, may be inferred or gathered from that person's outward manifestations. His conduct, his words, his act and the objective facts and circumstances disclosed from the evidence and the reasonable inferences to be drawn therefrom give rise, if you credit this, to circumstantial evidence that you test, from which you may conclude a state of mind if the inference logically and reasonably flows from that act or conduct.

In this case circumstantial evidence and direct evidence have been produced by all The Government contends that its evidence establishes the defendant's guilt on each charged. Each defendant contends that no evidence has overcome the presumption of his innocence and that at least there is a reasonable doubt of his guilt. You apply to all the evidence the same standard of proof. It must satisfy you of the guilt of the defendant beyond a reasonable doubt on every essential element of the offense or else you must acquit that defendant. In the determination of whether a defendant is guilty or not guilty you must bear in mind that guilt is personal and individual. Therefore the fact that others named in the indictment may have pleaded guilty or not as I said before is not evidence of the guilt of any other defendant, or that the offenses charged against those in this court were committed by them.

Whether a particular defendant is guilty or not must be determined by you beyond a reasonable doubt solely by the evidence introduced against that particular defendant or the lack of it, and the reasonable inferences that may flow from that evidence or from the circumstantial evidence that you may find is before you, and that determination must be made by you with regard to the evidence relating to that particular defendant and no one else.

All right. I'm going to take about a 30-secon recess here if you don't mind. Your ears may have a 30-second recess.

All right. Now you must make your own evaluation of the evidence including the testimony given by each of the witnesses and determine the degree of weight you choose to give to such evidence. It is for you to determine from the testimony and the demeanor on the stand of a witness whether or not he or she has given truthful reliable testimony or unintentionally or otherwis embroidered the truth, falsified, exaggerated or suppresse material facts and thus given an unreliable story.

In evaluating testimony you may consider the interest or lack of interest of any witness in the outcome of the case, the bias or prejudice of a witness, if you find that he or she had one, the appearance, the manner in which the witness gave testimony on the stand, and the opportunity that the witness had to observe or note the facts concerning which he or she testified; the probability or improbability of the witness' testimony when viewed in the light of all of the evidence in the case.

The effect if any of any narcotics addiction the witness may have or may have had. His or her criminal record if any. These are all items to be taken into your consideration in determining the weight if any that you will assign to that witness' testimony. The testimony of a witness may fail to conform to the facts as they occurred because he or she is intentionally telling a falsehood or because he or she did not accurately see or hear that about which he or she testified, or because his or her recollection of the event is faulty, or even because he or she has not expressed himself clearly in giving the testimony.

You are also entitled to consider the possibility that where a witness is called upon to testify long after an event and at great length, inconsistent statements may be the result of an innocent mistake or lapse of memory rather than a deliberate intention to falsify or shade the facte. In short it is not unusual in lengthy proceedings to utter inconsistencies at some stage along the line. If your consideration of the evidence makes it appear that there are differing versions of the facts resulting in a discrepancy in the evidence you will have to consider whether the apparent discrepancy involves understandable error which can be reconciled by fitting the two stories together in a rational relationship. If, however, you believe that is not appropriate or possible you will then have to determine which of the conflicting versions you will accept.

You may if you wish accept so much of the testimony of a witness as you deem true and disregard what you feel is faulty or mistaken or unclear. You are at liberty if you deem it proper under all the circumstances to do so to disbelieve testimony in whole or in part even though it is otherwise not impeached or contradicted.

If you find that any witness has testified falsely as to a material fact before you, the law permits to disregard completely the entire testimony of that witness on the principle that one who testifies falsely about one material fact is quite likely to testify false

dws

about everything. However, you are not required to consider such a witness as totally unworthy of belief. You may if you wish accept so much of his or her testimony as you believe true and reliable and disregard that which you feel is false or unworthy of acceptance.

You have heard testimony by at least one witness, a New York City police woman named Johnson, that she acted in what was referred to as an undercover capacity. Whether or not you personally approve of the policy of using such methods is not an issue for you to consider and should play no part in your deliberations.

You have heard testimony about how narcotics agents here at some time used the services of Marion Ladd as an informer. Whatever you think of the use of such informers the Government often uses them to get leads to try to ascertain those who are violating the law. Whether or not you or I may approve of this is beside the point, providing that such use in no way infringes upon the right of any defendant, because the use of such services is not forbidden by law.

You are not being asked here to determine whether or not you agree with the policy of the use of informants. Putting it another way, if you are satisfied beyond a reasonable doubt as to the element of a crime as

dws

I will charge you then you should find the defendant guilty even though you believe his or her apprehension came about in some measure by the Government availing itself of the services of an informant. Some of the Government witnesses were admittedly, according to them, participants in the crime charged in the indictment. The Government must frequently use such testimony because otherwise it would be difficult or impossible to detect or prosecure wrongdoers. Such witnesses are sometimes referred to as accomplices. I'm sure you've heard that word.

The Government called Jack Brown, Luis Sureda, Michael Parker and Ann Reynolds to testify. These are witnesses who claim that they conspired with the defendants in this case. That a witness asserts that he or she is an accomplice may be considered by you as bearing upon his or her believability or credibility. However, it does not follow that just because a person asserts participation in a crime that he or she is not capable of giving a truthful version of what occurred. Such testimony, however, should be viewed with great caution and scrutinized carefully.

Did any alleged co-conspirator here give false testimony or color their testimony contrary to the fact hopeful that this testimony would result in favorable treatment at some time? Did an alleged accomplice believe that the defendant's acquittal would vitiate expected rewards that may have been promised in return for the plea of guilty or the testimony? Or did these witnesses or any of them make a clean breast of their wrongdoing and tell the truth as to significant matters? That is your question.

Further I want to say to you that there is no requirement in the Federal Court that the testimony of an accomplice be corroborated. A conviction may rest upon the uncorroborated testimony of an accomplice or accomplices if you believe that testimony to be credible and believable. Evidence that a witness has been convicted in the past of certain crimes that may be considered by you in determining that witness' credibility.

This is not to say that a person with a prior conviction or convictions is to be deemed incapable of telling the truth. Prior convictions however was I say may be considered when you determine that witness' credibility or believability. You are obviously therefore to be looking for quality in the evidence and not just the mere number of witnesses alone. Similarly the testimony of any witness whom you find to have committed a previous perjury or fabrication should be considered with caution

dws

and weighed with great care.

Mr. Sureda you will recall testified that he had committed perjury on a hearing. Mr. Brown testified that he had committed perjury in a hearing some years ago. Again as I say such testimony should be considered with caution and weighed with great care. However it is for you to determine whether and to what extent the testimony of such a witness is to be believed or not.

Now the general rule is that witnesses are permitted to testify only to facts and may not express their opinions. The except to this rule is the opinion of a qualified expert on some particular technical matter. The expert may testify as to his opinion on a subject concerning which he has special knowledge. This is allowed on the theory that the advice of one experienced and versed on technical or special subjects will aid you as the jury. You may consider the expert's qualifications and opinion, weigh his reasons if any, give his testimony such weight as you feel it deserves, and as previously stated, expert opinion is advisory and you may reject it entirely if in your judgment the reasons given for it are not convincing or sound. That determination rests with you and not with the expert.

The Government has called several expert witnesses including forensic chemists Hendrickson and Barbato regarding various matters having to do with analysis of cocaine and vacuum searches and traps.

The Government also called Frank Gutowski I believe employed by the Telephone Company to explain the terminology of telephone line cards and called one Sergeant Pepe I believe of the Newark Police Force to testify concerning his knowledge and experience with the use of spoons for sniffing and packaging narcotic drugs.

As in the case of all experts you are to give such testimony the weight you believe it deserves. Now except for Mr. Brightman no defendant testified in this case in his or own behalf. Under our Constitution I charge you that a defendant has no obligation to testify or to present any other evidence whatsoever bedause as I have said the burden of proof is solely upon the Government as to all elements of this case and that burden remains upon the Government throughout the entire trial and does not shift.

Therefore you are not to and may not consider in any way whatsoever, or attach any significance to the fact that any defendant availed himself or herself of the constitutional right not to testify. No adverse inference may be drawn against him or her by you because of

dws

this exercise of the privilege. In short the fact that a particular defendant did not testify may not be considered by you at all.

Defendant Bernard Brightman has testified before you. Obviously he has a deep personal interest in the result of this prosecution. Interest as you are doubtless aware creates a motive for testifying falsely. The greater the interest the stronger the motive. The defendant's interest in the result of this trial is of a character possessed by no other witness.

In appraising the credibility of Mr. Brightman you should take such interest in the outcome in due consideration. However I want to say this as firmly as anything I have said before, it by no means follows that simply because a person has a vital interest in the end result that he's not capable of telling you the truthful straightforward story. It is for you to decide to what extent if at all his interest has colored or affected his testimony.

If you find beyond a reasonable doubt that a defendant used a name other than his or her own -- the gover contends that the defendant Yvonne Schennault used the name Chapman -- in order to avoid subsequent indentification by law enforcement officers who might be seeking him or her in connection with certain conduct that would be a fact in connection with the charge against that defendant only from which you may, but need not infer a consciousness of guilt on his or her part. Further I do not mean to imply that from the use of a nickname as opposed to the use of a name to avoid subsequent identification that any consciousness of guilt may be inferred.

Now Juan Antonio Alvarez as you were aware has not been in the courtroom during this trial, although his lawyer, Mr. Yon has. There has been testimony from which, if you credit it, you could conclude that after receiving notice of the date of the trial defendant Juan Antonio Alvarez not only failed to appear but also could not be found at his usual places.

I charge you that the flight of a defendant after he is accused of a crime that has been committed is a fact which if proved may tend to prove consciousness of guilt on the part of the defendant and may be considered and weighed by you, the jury, in connection with all the other evidence. Whether or not evidence of flight shows a consciousness of guilt and the significance if any to be attached to such circumstances are matters for your determinaion.

The flight of a defendant does not create a presumption of guilt but is merely a fact to be considered by you together with all the other evidence in determining the guilt or innocence of that defendant. I hardly need to say but I will say it, the flight of Juan Antonio Alvarez if you find he did flee is obviously no evidence of the guilt of any other defendant in this case. It's to be considered as to him alone.

Defendant Bernard Brightman has introduced evidence of his good reputation in the community for honesty and veracity and law abidingness and truthfulness. Assuming you credit this testimony you may properly consider whether a person with this character would perpetrate the crimes charged against him in this indictment. Therefore you should consider this evidence in the case in determining whether the prosecution has proved Mr. Brightman guilty beyond a reasonable doubt.

Evidence of good reputation may in itself create a reasonable doubt as to guilt where without such evidence no reasonable doubt would exist. On the other hand if on all the evidence you are satisfied beyond a reasonable doubt that Mr. Brightman is guilty a showing that he previously enjoyed a reputation of good character does not justify or excuse the offense. You should not acquit him merely because you believe he is a person of good repute.

The testimony of a character witness is a reflection of a reputation in the community. The testimony of a character witness is not to be taken by you as a witness' opinion as to the guilt or innocence of the defendant on charges in the indictment. Guilt or innocence of the defendant is for you and you alone to determine.

During summations there was some reference to certain persons and to the fact that they were not called as witnesses. In a Federal criminal trial both the Government and the defendant are entitled to receive from the Clerk of the Court a subpoena calling for the attendance of a witness. No matter where that witness lives in the United States he or she is required to appear when served with such a subpoena.

Now Jodi Brown or Carol Cuffee for example could have been called by either side as a witness. So that from the failure of either side to call them you may infer that their testimony might have been unfavorable to either the Government or to the defendant, but it is equally within your discretion to draw no inference at all from the failure of the Government or a defendant to call such witnesses. In this regard I want to point out that

dws

one Patricia Dyson is a citizen of England presently residing in London.

I charge you that Miss Dyson was equally unavailable to both sides and that no inferences should be drawn concerning her failure to testify. In short you should utterly disregard her possible testimony as a factor in this case.

Now there is no presumption against the Government from its not calling a witness when it appears that the testimony of that witness would be merely cumulative or repetitious and of no greater value than the testimony of the witnesses who have in fact testifeied.

(Continued on next page.)

In connection with these charges and with things that allegedly occurred, you may have heard from time to time the term Southern District of New York. That is a federal geographical district which includes Manhattan, the Bronx, Rockland County, in which Orangeburg, of which we have heard testimony, is located and other counties running up toward Albany, New York. The latter counties we do not have to be concerned with. The Southern District of New York includes Manhattan, Bronx and Rockland. It does not include Brooklyn or Queens.

Now, ladies and gentlemen, let's turn to the indictment and the federal statutes that are involved in these charges. Count 1 of this indictment charges:

"From on or about January 1, 1968, and continuously thereafter up to and including the date of the filing of this indictment, which is April 5, 1976, January 1, 1968, to April 5, 1976, in the Southern District of New York and elsewhere, Juan Antonio Alvarez, Angel Rodriguez, Jose Luis Sureda, Frank Moten, Sebastian Intersimone, John Capra, Leoluca Guarino, Steven Dellacava, William Hightower, Sidney Foster, Joseph Sampson, Lois Sampson, Ann Reynolds, Michael Parker, Yvonne Alvarez Schennault, Al Williams, Donald O'Dood, Don Wilson, James Laws, Tommy Davis, Bernard Brightman, John Morris, Lawrence Mitchell, Solon Glaze,

hph 2

Raphael Bonilla, Charles Cowpers, Marion Dunmore, Albert Lee Jones, Helen Kellem, John P. Morgan, Nelson Alvarez, Eduardo Yaujar, Lazaro Yaujar, the defendants, and others to the Grand Jury known and unknown, unlawfully, wilfully and knowingly, combined, conspired, confederated and agreed together and with each other, to violate the narcotics laws of the United States, specifically, Sections 173, 174, 812, 841(a)(1) and 841(b)(1)(A), 951, 952 and 960 of Title 21, United States Code.

Now, these are names that now mean something to you after 13 weeks of evidence and argument.

"The objects of the conspiracy

2. It was part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully and knowingly would import and bring into the United States large amounts of narcotic drugs, specifically heroin and cocaine, from and through countries unknown in South America and other places, in violation of Sections 173, 174, 951, 952 and 960 of Title 21, United States Code.

3. It was a further part of the conspiracy char herein that the said defendants and co-conspirators, unla fully, wilfully and knowingly would receive, conceal, keep, sell and facilitate the transportation, concealment

and sale of narcotic drugs, specifically heroin and cocaine, after these narcotic drugs had been imported and brought into the United States contrary to law, knowing that these narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

4. It was a further part of the conspiracy charged herein that the said defendants and co-conspirators unlawfully, wilfully, intentionally and knowingly, would distribute and possess with intent to distribute heroin and cocaine, which are classified under law as Schedule I and II narcotic drug controlled substances, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

THE MEANS USED BY THE DEFENDANTS AND CO-CONSPIRATORS TO ACCOMPLISH THE OBJECTS OF THE CONSPIRACY

5. Among the means whereby the defendants and co-conspirators would and did carry out the objects of said conspiracy, and insure the success of the unlawful venture to import, buy, sell and distribute narcotic drugs for profit, were the following:

(a) The conspiracy took the form of a loose-knit business organization with members of the conspiracy operating at three basic levels. At the first level, some of the defendants and co-conspirators served as importers and sources of supply of narcotic drugs. At the second level, other members of the conspiracy acted as middlemen, purchasing narcotic drugs, in wholesale quantities directly from the suppliers. In turn, these middlemen sold heroin and cocaine in multi-kilogram quantities to defendants and co-conspirators at the third level who, in turn, distributed these drugs to their respective customers. Certain of the other defendants and co-conspirators performe specialized functions which were essential to the success of the overall conspiracy. In this fashion, a chain of distribution was established for this narcotics-trafficking business leading from sources of heroin and cocaine through middlemen, wholesalers and retailers and ultimately to narcotic addicts and users in New York City, Washington, D.C., Chicago, Illinois, Miami, Florida, and other cities in the United States.

(b) During the course of the said conspiracy the said defendants played the following roles in this conspiracy:"

Under the heading "Importers and Sources of Supply"

(1) Defendants Juan Antonio Alvarez, Angel Rodriguez, and Jose Luis Sureda, were importers and

suppliers of cocaine, doing business in New York City and Miami, Florida, who between 1968 and 1974 sold approximately 70 kilograms of cocaine each year.

(2) Defendant Sebastian Intersimone was a supplier of heroin, doing business in New York City.

(3) Defendants John Capra, Leoluca Guarino and Steven Dellacava were suppliers of heroin, doing business in New York City, who between 1970 and 1973 sold kilogra quantities of heroin each month.

d3

Under the heading "Wholesale Middlemen":

(4) John Brown, named herein as a co-conspirator, but not as a defendant, was a bulk purchaser of heroin and cocaine from the importers and sources of supply.

(5) Defendant Frank Moten, was an advisor to John Brown, delivered narcotic drugs to Brown and received drugs from him, introduced certain defendants and co-conspirators to Brown for the purpose of purchasing drugs, vouched for them as reliable persons, financed the narcotic operations of several of the defendants and co-conspirators, engaged in financial dealings for Brown and other of the defendants and co-conspirators, and shared in the profits of the conspiracy.

(6) Defendant Michael Parker delivered narcotic drugs on several occasions to several of the defendants

and co-conspirators.

Under the heading "Wholesale Traffickers" the indictment continues:

(7) Defendants William Hightower, Sidney Foster, Joseph Sampson and Lois Sampson, purchased and resold kilogram quantities of heroin and cocaine while doing business in Washington, D.C. and New York City.

(8) Defendants Yvonne Alvarez Schennault, Al Williams, and Donald O'Dood purchased and resold kilogram quantities of heroin and cocaine while doing business in Chicago, Illinois, Miami, Florida and New York City.

(9) Defendants Don Wilson, James Laws, Tommy Davis, Bernard Brightman, John Morris, Lawrence Mitchell, Solon Glaze, Raphael Bonilla, Charles Cowpers, Marion Dunmore, Albert Lee Jones, Helen Kellem, Ann Reynolds and John P. Morgan, purchased and resold kilogram quantities of cocaine and, with respect to certain of the defendants and co-conspirators, heroin while doing business in New York City and, in certain cases, in various cities in New Jersey.

d4

Under the caption "Other Defendants":

(10) Defendant Nelson Alvarez built secret compartments in various locations in Florida where he

and his brother, defendant Juan Antonio Alvarez, hid large amounts of cocaine and money related to narcotics transactions.

(11) Defendants Nelson Alvarez, Eduardo Yaujar and Lazaro Yaujar picked up money as payment for narcotics and delivered it to defendants Juan Antonio Alvarez and Angel Rodriguez.

Paragraph 12 states:

Other co-conspirators, not named herein as defendants, served respectively during the course of the said conspiracy as suppliers of narcotic drugs and as purchasers and resellers of narcotic drugs, in various cities in the United States.

(c) The importers, wholesalers and retailers of heroin and cocaine who were the members of this conspiracy knew that their actions were inextricably linked to and aided by the actions of co-conspirators and, because of the scope of the venture, knew that others were involved in the performance of functions vital to the overall success of the business. Accordingly, each level of the operation depended for its success upon the existence of the others.

d5

Now, in our federal system there are no crimes except as defined or created by statute, that is by laws

hph8

enacted by Congress. So, in this case as in all others, the charges, the accusations against these defendants are made under certain federal laws passed by the United States Congress. It will not be necessary for you to memorize or know exactly the words of any of these laws but I know it will be helpful as background for your later understanding to give you the basic description of the statutes that are involved in this case and to read them to you. And, as there is a small complication as to Count 1 that comes about because of a change of the law in 1971, about which I will tell you, I feel it especially appropriate to go rather deeply into this. Because of the period that concerns us in this conspiracy, 1968 to 1976, we are concerned basically in Count 1 with two federal laws. One that had been enforced for some years and ended on May 1, 1971. At that time that law was replaced by a succeeding law which became effective on May 1 1971, and is in effect today. And I may call those, for simplicity purposes at some points here, the old and the new law. One in effect to May 1, 1971, and one in effect after that date.

As I will indicate to you, this is in the final analysis much less complicated than perhaps it starts out sounding. Now, Count 1 charges a conspiracy

hph 9

to violate both the old and the new federal narcotics laws. A conspiracy involves a criminal scheme. The offense is the scheme or the plot, the conspiracy. It makes no difference whether the scheme was successful or whether or not it was carried through. It is enough that there was a criminal plan. And as I have said, this criminal scheme is charged to have run from 1968 to April 5, 1976, and thus it is alleged that it started out during the time the old law was in effect and ended almost five years after the new law had become effective. The change-over date, as I have said, was May 1, 1971.

Now I will read to you the old and the new statutes, the federal narcotics laws which the defendants are charged with violating Count 1, which is the conspiracy count:

The relevant federal narcotics law in effect in 1968, 1969, 1970 and up to May 1, 1971, were Sections 173 and 174 of Title 21. 174 provided, in part, as follows: Whoever fraudulently or knowingly imports or brings any narcotic drugs into the United States contrary to law or receives, conceals, buys, sells or in any manner facilitates the transportation, concealmeant or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported or

hph 10

brought into the United States contrary to law, or conspires to commit any of such acts in violation of the laws of the United States is guilty of a crime.

d6 Section 173 provided, in part, that it is unlawfu to import or bring any narcotic drug into the United States except such amounts as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses.

Now, in order for you to find any defendant guilty of the crime involving a conspiracy to violate the law in effect prior to May, 1971, which is charged as one of the objects of the conspiracy, you will remember, you must be convinced in addition to the elements of conspiracy as to which I will be charging you of the following elements beyond a reasonable doubt: First, that in the period January 1, 1968, through April 30, 1971, the defendant you are considering conspired to either receive or sell or in any manner to facilitate the transportation or concealment of heroin or cocaine.

Second, that the heroin or cocaine as to which the defendant conspired had been or will be imported unlawfully into the United States.

Third, that the defendant knew that the heroin or cocaine had been or would be illegally imported into th

hph 11

United States.

You will observe that under the old law it was not only the receipt of illegal and imported narcotics that was prohibited. The law condemns other distinct and separate activities and the commission or conspiracy to commit any one of them constituted a violation, whether one received, concealed or facilitates the transportation or concealment of narcotics. The word "received" is used in its ordinary sense, and so is the word "conceal", which means to hide in a place out of sight or prevent disclosure. "Facilitate" means to make easy or less difficult to aid or assist in furthering or advancing in a meaningful way one or more of the acts prohibited under the law.

Now, as I have stated, under the old law, the first element is the defendant conspired either to receive, conceal or sell or in any manner facilitate the transportation or concealment or sale of the narcotic drug. As to this element, you are instructed it is not necessary for you to find the defendant conspired to do all of those prohibited acts. If you are convinced beyond a reasonable doubt that he conspired as to any one of them and you find the other elements exist, you may convict. You will notice in discussing the alleged purposes of the conspiracy that

hph 12

I have mentioned that under the old law the drugs must be those already or to be illegally imported and the defendant must know this. In this regard the government contends there is evidence that the cocaine allegedly involved in this conspiracy was imported from South America. However, there was no direct proof in the case as to the importation of any heroin. In this regard I charge you if you find heroin was involved in this conspiracy, prior to May 1, 1971 there arises an inference under the law which I shall explain to you. Although the burden is always on the government to prove beyond a reasonable doubt that each of the necessary elements to convict are present, you are entitled to infer from the fact of a defendant's possession of heroin that it was illegally imported and that the defendant knew it to have been illegally imported. You may draw this inference unless the evidence before you explains to your satisfaction that said defendant's possession of the narcotic drug. In other words, the government demonstrates beyond a reasonable doubt that a defendant had possession of what is in fact heroin and there is no satisfactory explanation in the case of its possession, you may infer that the heroin was illegally imported and that the defendant knew it was illegally imported.

Just a word for the basis for authorizing you as jurors to draw such an inference. Recent official investigations and congressional findings indicate that all heroin found in the United States has been illegally imported into this country, because heroin is not produced domestically. It is illegal to import heroin or products from which heroin is derived. From these facts it is reasonable to infer that any heroin found here has been illegally imported. It is also reasonable and rational to infer that one who has unexplained possession of or deals in any quantities of heroin, would probably know its source or at least he would know it was smuggled here from somewhere outside the country unless he deliberately closed his eyes to the obvious.

There is a similar inference with regard to cocaine although it only applies if the possession is of larger quantities. The reason the inference of illegal importation as to cocaine does not arise from the mere possession as in the case of heroin, is that some cocaine exists in this country for use as a legitimate medicine, although its use is very strictly controlled and regulated. However, I take judicial notice of the fact that in the year 1968, only 5.5 kilograms of cocaine were stolen from legitimate channels within the United States; in 1969 only

hph 14

6.5 kilograms were stolen and in 1970 only 4.65 kilograms were stolen from these legitimate channels. If you find that the conspiracy prior to May, 1971, involved possession of amounts of one-eighth of a kilogram or more of cocaine, you are entitled to infer under the law that these amounts had been or would be illegally imported, and that a member of the conspiracy would know such a fact.

Now, while these official investigations and congressional findings furnish the basis upon which you may draw the inferences flowing from the possession of heroin and cocaine, the findings are not binding upon you nor are you compelled to draw the inferences once possession is established. Whether or not you draw the inferences to establish the element of illegal importation and the defendant's knowledge thereof is up to you, drawing upon your own knowledge, common sense and your worldly experience, these inferences which may be drawn based upon possession do not require that it be shown that a defendant personally handled or touched the narcotics. Physical, actual or manual possession is not required. The law also permits an inference based upon a defendant's constructive possession as to which I shall define for you later in the charge.

d8

Now, effective May 1, 1971, the old law was

hph 15

replaced by the new law. The statute is called the Drug Abuse Prevention Act which is now contained in other sections of Title 21 of the United States Code. The part of the Act applicable to the charges here is called the Controlled Substances Act. Again it is not necessary for you to remember the names of the Acts or their applicable parts. It is sufficient if you remember the conduct which the Act contains, the essential elements of the offense charged here.

d9

Now the term "controlled substances" is used in the new Act to refer to any drug included in any one of the five schedules contained in the Controlled Substances Act. Heroin is included in Section 1B and cocaine is included in Section 2A.

Section 841(a)(1) of that Act makes it unlawful to manufacture, distribute or dispense or possess with intent to manufacture, distribute or dispense a controlled substance.

Section 952 makes it unlawful to import into the United States from any place outside thereof any controlled substances Schedule I or II of subchapter 1 of this chapter.

Sections 846 and 963 of Title 21 are the conspiracy statutes of the new law governing conduct occurring after May 1, 1971. They both read as follows: "Any person who attempts or conspires to commit any offense defined in this subchapter is guilty of a crime."

Ladies and gentlemen, I am going to take a recess at this point for about ten minutes. I'm afraid you must remain in the jury room during the course of this charge.

(Jury left)

T4 am

dws

(In open court; jury present.)

THE COURT: Now, ladies and gentlemen, what is conspiracy? Conspiracy is an agreement or an understnding by two or more persons to accomplish a criminal or unlawful act. To establish this the Government is not required to showthat two or more persons sat around a table and entered into a solemn pact orally or in writing stating that they have formed a conspiracy, or to set forth the details or the means by which it's to be achieved.

Your common sense will tell you, and let me parenthetically say that you are to retain and apply your common sense throughout all of your deliberations; your common sense will tell you I'm sure that when persons in fact undertake to enter into a criminal conspirawcy much is left to the unexpressed understanding. What the evidence must show in order to establish that a conspiracy existed is that its members in some way or manner expressly or by implication came to have a common understanding to violate the law or to accomplish an unlawful plan.

To determine whether there has been such a conspiracy you may judge the acts and the conduct of the alleged co-conspirators which are done to carry out an apparent criminal purpose. The old adage "Actions speaks louder than words" is obviously applicable here. Often the only evidence available is that of a diconnected act or conduct on the part of the individuals charged, which acts or conduct however when taken by you together and considered as a whole permit the inference that the conspiracy existed as conclusively as direct proof. In short the items of evidence are not to be viewed in isolation but together with each other. You are to view in totality all of the evidence.

The proof concerning the accomplishment of the objectives of a conspiracy may be the most persuasive evidence of the existence of a conspiracy itself. Success of the venture, if you believe it was successful, may be the best proof if you credit it of the existence of the agreement.

I mentioned earlier, I think, that a conspiracy has sometimes been called a partnership for criminal purposes or a partnership in crime, in which each member of it becomes an agent of each other member. Each person in a conspiracy may perform separate and distinct acts at different times and in different places. All the conspirators need not be acquainted with each other. They may not have previously associated together. One of the defendants may know only one member of a conspiracy. I that defendant enters into an unlawful agreement with that other member of the conspiracy he becomes a partner to the conspiracy. One conspirator may play a major role while another may play a minor role. Thus the guilt of one is not governed by the extent, the duration or whether he played a greater or a lesser role. In other words, it is not required that a person be a member of the conspiracy from the very start. He may join at some point during its progress and be held for all that has been done to further it after he joined and that may thereafter be done during its existence while he or she remains a member.

In other words, every conspirator is fully responsible for whatever other co-conspirators do or say in furtherance of the conspiracy whether he knows about it or nor, whether he or she specifically approves of it or not. That is as long as you have found such a defendant to be a member of the conspiracy.

A conspiracy once formed is presumed to continue until either its objective is accomplished or until there is some affirmative act of termination by its members. A conspiracy is not ended as long as the evidence shows an intention to continue it. Such intention may be inferred by you from activities of the conspirators in furtherance of the unlawful purposes of the conspiracy.

Once a person is found by you to be a member of the conspiracy that person is presumed to continue membership in that conspiracy until either its objective is accomplished or there is some affirmative act of termination by its members or until his or her withdrawal from the conspiracy. A conspirator has the right to discontinue his or her participation in carrying out the conspiracy but it will take affirmative action on his or her part thus to withdraw and to terminate his or her liability for future activities of his or her partners. Of course such a withdrawal does not relieve a defendant of responsibility for his or her prior membership in the conspiracy.

If you find that any defendant was a member of the conspiracy charged in this case but withdrew prior to April 5 of 1971, which is the statute of limitations, five years prior to the filing of an indictment in this case, about which I'll charge you more later, I charge you that the applicable statute of limitations on the conspiracy count would have run and you must acquit that defendant on Count 1. If you find a withdrawal prior to April the 5th of 1971.

Now the burden is on the defendant once you find a conspiracy existed in which he or she is a member to satisfy you that he or she withdrew or disassociated. I want to make it clear that that burden exists only if you are convinced that there was a conspiracy in which he or she was a member.

The burden of establishing the existence of a conspiracy in which the defendant is a member continues to rest upon the Government beyond a reasonable doubt.

2 An unlawful conspiracy may exist even though its purposes are not accomplished. Of course the Government contends here that its purposes were accomplished over a period of seven years, and evidence that its purposes were accomplished may be considered by you, if you find that there is sufficient evidence, as proof of its existence.

Now using these principles to guide you you must determine whether or not the proof has been established here of the existence of the extended conspiracy or the agreement that is charged in the indictment. In deciding this you must consider all the evidence with respect to the conduct, acts and declarations of each of the alleged co-conspirators and such inference as you may reasonably draw from that.

It is sufficient to establish the existence of the conspiracy if from the proof of all the relevant facts and circumstances you find beyond a reasonable doubt that the minds of at least two alleged co-conspirators met in an understanding way to accomplish by the means charged the objects of the conspiracy as are charged in the indictment.

If you do conclude that the conspiracy as charged did exist you must then next determine whether any defendant here before you became a member of it. An individual defendant's participation in a conspiracy, if you find one existed, must be established by the independent evidence of his or her own acts, conduct and statements and the reasonable inferences to be drawn from them.

As I said if you find a conspiracy did exist focus upon each defendant to determine whether that defendant knowingly and wilfully became a member of the conspiracy and if so when this event occurred, when this membership occurred. Of course if you find that no conspiracy existed then that would end that matter and it would be unnecessary for you to consider any other elements and of course you should acquit everybody on Count 1 if yo find that there was no such conspiracy as charged.

Now if you find that one existed, to determine whether a defendant was a member you ask yourself whether that particular defendant acted wilfully and with knowledge that his or her acts were an integral part of the alleged unlawful enterprise and to help carry it forward as an associate in it. You must find that the defendant knew what the unlawful purpose of the conspiracy was and it's purposes are alleged in the indictment, as distinguished from acting exclusively on his or her own.

It is not necessary I charge you that a defendant be fully informed as to the details or the full scope of the conspiracy in order to justify an inference of knowledge on his or her part. Nor as I think I said earlier need he nor she even know all the conspirators.

The scope of each defendant's agreement that defendant that you are considering at that particular time if you reach this must be determined individually from what was proved as to that defendant. In order for a defendant to be held for joining others he or she must in some sense promote the venture himself or herself, make it his or her own. To do this you must determine just what each alleged conspirator is promoting and making his or her own.

A single act may be the basis for making a defendant a member of the conspiracy but since conviction of conspiracy requires an intent to participate in the unlawful enterprise the single act must be of such a nature that you can reasonably infer from it an intent to participate in the unlawful enterprise. Otherwise proof of participation in the single isolated narcotics transaction alone is insufficient to warrant a conviction for conspiracy. However if there is independent evidence tending to prove that a defendant had some knowledge of the broader conspiracy and an intent to participate therein or where the transaction is of such a nature that such knowledge and intent may be inferred then such a single transaction if you so find may be the basis for concluding a defendant joined in the conspiracy. In this regard you may consider the quantity of heroin or cocaine involved, its cost and the circumstances under which the purchase or sale was made as bearing upon a defendant's intent to participate in the conspiracy.

You may find from such facts that the conspirators at one end knew business could not stop with their buyers and that the conspirators at the other end knew it did not begin with their sellers. In this regard I wish to instruct you that the fact that not all of the defendants may have known or worked directly with all of the others, as I said before, is not significant. It is significant if you find that based upon his or her involvement the defendant should reasonably have known that others were involved in the performance of functions vital to the

dws

success of the business. Such facts may prove that each level of operation depended upon the existence of the other and the mutual interdependence of each level was fully understood and appreciated by the defendant.

You have seen various kinds of evidence that one or more defendants associated with each other or knew each other, photographs, telephone toll records, address books and other documents.

Where a person is charged with conspiracy the laws allows evidence of association, even wholly innocent association with his alleged co-conspirators both indicted an unindicted. The theory is that people engaged in a joint enterprise may be more likely to be found together than those not so engaged. But it must be obvious to you that mere association in and of itself proves nothing.

3 After giving it the cautious treatment I have indicated you may use evidence of association or lack of association if you find it along with all the other evidence in the case in determining whether or guilt has been established beyond a reasonable doubt.

I wish to caution you however that mere association with one or more of the conspirators does not make one a member of the conspiracy. To take a very homey example if somebody is a baby-sitter for Jack Brown's child

dws

that does not make that person a co-conspirator. Mere association does not make someone a co-conspirator. Nor is knowledge of the conspiracy without participting in it sufficient. Of course you should not and must not infer membership in a conspiracy merely because of the family relationship or merely because some of the defendants may have had their pictures taken together or merely because of friendship between alleged co-conspirators.

You may not find any defendant guilty merely by association. The mere fact that two defendants are on trial together cannot be considered in any way by you evidence that they participated in a conspiracy. I further charge you that the mere fact that a husband and wife are on trial together cannot be considered in any way by you as proof of a joint participation in the conspiracy or unlawful plan or scheme.

Remember guilt if it exists is personal and individual. Nor does one become a member of a conspiracy by engaging in a personal blow of cocaine with somebody or a snort, or by buying small quantities of cocaine, if you reasonably conclude those were for personal use only. One does not become a member of a conspiracy by rendering services to the conspirators if he does not know of the existence of the conspiracy. Acts done innocently,

dws

although tending to further the object of the conspiracy, will not render their author a co-conspirator. There must be wilful participation in the conspiracy with an intent to further the common purpose or design.

What is necessary is that the defendant you are considering participate with knowledge of at least some of the purposes and with the intent to aid in the accomplishment of those unlawful ends. In short a person becomes a member of a conspiracy by associating himself or herself, even though informally, with a common plan or scheme knowing the central aim or purpose and intending to aid and bring about the success of the plan or scheme.

You will recall that I stated during the trial earlier in the trial that evidence concerning the acts, conduct, statements and declarations made by one alleged co-conspirator outside the presence of other defendants or co-conspirators was received subject to connection, I think is the word that I used from time to time.

With respect to defendants who are not present at the time a particular act or declaration occurred this evidence was received subject to proof of the existence of the conspiracy and subject further to independent proof that the defendants who were not present were knowing participants in the conspiracy. That's why it's called

dws

subject to connection.

All conspirators or alleged conspirators need not have originally or simultaneously conceived the conspiracy or participated in its inception. In order to be guilty one who comes in later with knowledge of the means and purposes, although not necessarily the details, and who intentionally cooperates in a common effort to gain the unlawful result may become a member of the conspiracy equally with the alleged existing co-conspirators and that late comer is really responsible for the purposes of the conspiracy count for all the acts done by any of the other members before or afterwards in furtherance of the common objectives, like any partner in a partnership agreement.

The acts or statements of one alleged co-conspirator may be considered by you as evidence against other alleged co-conspirators, but only if you find that the statements and acts were spoken and done during the continuance of the conspiracy and in aid of it, and to further its purposes.

In determining whether any defendant was a member, as I said in another connection, each is entitled to individual consideration of the proof with respect to him or her including any evidence of his or her lack of knowledge or knowledge, his or her status of partner or

dws

manager or supervisor, his or her participation in key conversations, his or her participation in the plan, scheme or agreement alleged.

You must find beyond a reasonable doubt that a defendant did in fact join the conspiracy with knowledge of its unlawful purposes and intending to aid and assist in accomplishing that purpose. This intent may be inferred from his or her acts and declarations and no direct proof is necessary. The participation of a defendant must be established by his or her own actions, his or her own statements and declarations or his or her own connection with the acts and statements of the other alleged co-conspirators.

(Continued on next page.)

hph 1

T5 am

Now, some of the defendants have contended the government's proof fails to show the existence of the overall conspiracy which this indictment charges. It is argued that no conspiracy existed or if in fact one did exist then at best the evidence shows several independent conspiracies involving various groups of participants. I charge you that proof of several separate conspiracies is not proof of a single overall conspiracy charged in this indictment unless one of the several conspiracies proved is the single conspiracy which this indictment charges. So, what you must first do is to determine whether the conspiracy charged in the indictment existed between two or more conspirators. If you find no such conspiracy existed, then you must acquit all the defendants on the conspiracy count, Count 1. However, if you are satisfied that such a conspiracy existed, then you must determined who the members of that conspiracy were and if you find that a particular defendant is a member of another conspiracy, not the one charged in the indictmen you must acquit that defendant. In other words, to find a defendant guilty on Count 1, you must find that he or she was a member of the conspiracy charged in this indictme not some other conspiracy.

In determining whether a given single conspiracy

hph 2

exists here, a given conspiracy exists as charged, you may consider what the evidence shows as to changes of personnel and activities. You may find a single conspiracy even though there were changes in personnel or activities, provided you find that some of the conspirators continued throughout the life of the conspiracy and that the purposes of the conspiracy continued to be those charged in the indictment. The fact that the parties are not always identical does not mean that there are separate conspiracies. In other words, if at all times the alleged conspiracy had the same overall basic purpose, and the same nucleus of participants, the conspiracy would be the same basic scheme even though in the course of its operation additional conspirators joined in and performed additional functions to carry out the scheme while others became inactive or terminated their relationship.

The indictment alleges that the conspiracy began on or about January 1, 1968, and continued until the filing of the indictment on April 5, 1976. However, I charge you that the government is not required to prove that the conspiracy began on a specific day or ended on a specific day. The proof that the conspiracy existed for a substantial portion of that period even though it might be a relatively small part of that period would be sufficient.

hph 3

Now, if you find that a conspiracy existed, the conspiracy charged in the indictment existed and that a particular defendant as to whom you are considering the charges was a member, you must then determine whether one or more members of the alleged conspiracy and not necessarily the particular defendant you are considering, whether one or more members had committed one or more of the overt acts alleged in the indictment have been committed in furtherance of some object or purpose of the conspiracy and that it was committed in furtherance of that act, object or purpose. The offense of the conspiracy, as I have told you earlier, is complete when the unlawful agreement is made and any single related overt act in furtherance of it is done by one of the alleged co-conspirators. Thereafter, an act done by any one of the conspirators in furtherance of the conspiracy becomes an act of all the members. Of course, an overt act needless to say by one who is not a member of the conspiracy, would not establish guilt.

Now let's get down to that perhaps mysterious pair of words, "overt act." That's a long time honored legal expression which means nothing more than some step action or co duct which is taken to achieve, accomplish or further objecti of the conspiracy. Thus showing the conspiracy is more than

hph 4

talk. The purpose of requiring proof of an overt act is while parties might conspire and agree to violate the law, they may change their minds before doing anything and do nothing whatsoever to carry their agreement into effect, in which event if that were the case that would not constitute an offense. There must be an overt act in furtherance of conspiracy.

Now, the overt act which the government must prove need not be a criminal act nor must the government prove all of the overt acts which are alleged in the indictment. Proof of any one of them by a member of the conspiracy is sufficient if you find beyond a reasonable doubt that it has been committed. It is not necessary, following up what I have just said, that the government must prove that each member of the conspiracy committed or participated in an overt act since I told you earlier the act of any member done in furtherance of the conspiracy becomes the act of all the other members. The overt act need not have occurred at the precise times or the precise places alleged. The government contends here that one or more of the overt acts which are charged in the indictment, among others, were committed and those overt acts, ladies and gentlemen, are as follows: In pursuance of the said conspiracy and to effect the objects thereof,

hph5

the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

1. In and about October, 1968, the defendants Juan Antonio Alvarez, Angel Rodriguez and Jose Luis Sureda, sold approximately 15 kilograms of cocaine in New York, New York.

2. Thereafter, in and about November, 1968, the defendants Solon Glaze, Lawrence Mitchell, John Morris and Joseph Sampson purchased cocaine in New York, New York.

3. In and about 1968, the defendants Al Williams, Donald O'Dood, and another person purchased approximately 3 kilograms of heroin in New York, New York.

4. In and about March or April, 1969, the defendants Angel Rodriguez, and Luis Sureda, sold approximately 20 kilograms of cocaine in New York, New York.

5. In and about 1969 the defendant Sidney Foster traveled to New York approximately four times each month to pick up eighth kilogran quantities of heroin and cocaine for the defendant William Hightower.

I think in the interest of time, since you will be taking this to the jury room with you, I need not read this further but obviously these are to be

hph6

read by you to see if the proof applies to some of them, all of them or none of them as you may determine.

Now, in this connection I would like to point out that certain evidence was received as to other occasions which are not charged in the indictment when, for example, certain defendants allegedly had drug dealings with Jack Brown prior to the beginning of the alleged conspiracy or as well as the testimony of Mrs. Tompkins and Mrs. Ladd as to drug dealings which are not charged.

When I deal with defendants individually, I will be more specific as to these matters which are what we lawyers call prior similar acts. However, I caution you this evidence, if credited by you is to be considered only on the question of whether a defendant became a member of the conspiracy charged in this indictment, it is only background, and only to the extent that it bears, if you so find, on the question of the defendant's connection with this particular conspiracy.

None of the defendants are on trial for any charge other than those contained in this indictment, as I have said to you before. I charge you, however, also that any evidence of a prior similar act may not be considered by you in any manner in your determination of defendants'

hph7

guilt on a substantive count, which I shall come to, and you may not consider evidence of such alleged activity by a defendant against any other defendant in this case.

So, to sum up: In order to prove the crime alleged in the first count, conspiracy, the government must establish the following four elements beyond a reasonable doubt: First, the existence of the conspiracy alleged for a substantial part of the period alleged.

Second. That it was part of the conspiracy to unlawfully violate the narcotics statutes to which I referred.

Third. That the defendant under consideration by you knowingly and wilfully became a participant in the conspiracy.

And, fourth, that at least one of the co-conspirators knowingly committed at least one alleged overt act in furtherance of the conspiracy during its existence.

d3

Let me read those four elements to you again, since they are the summation of what has been quite a bit of charge to you.

The government must establish the following four elements beyond a reasonable doubt:

First. The existence of the conspiracy alleged, for a substantial part of the period.

hph8

Second. That it was part of the conspiracy to unlawfully violate the narcotics statutes.

Third. That the defendant you are considering knowingly and wilfully became a participant.

Fourth. That at least one of the conspirators knowingly committed at least one of the alleged overt acts in furtherance of the conspiracy and during its existence.

May I say the fact that you are entitled to have testimony, by the same token if you need any portion of my charge reread to you, you are only to ask and that will be done, if there is confusion at that time, at a later point as to the aspect of the law.

I am going on to another area. I think this would be a good time to break for lunch. I would have broken in two minutes anyway. I will excuse you for lunch and upon your return we shall continue.

You are excused for lunch. I think we should plan to resume at ten minutes after 2.

(Jury left)

MR. MITCHELL: Your Honor, what are your plans for after the charge? How long will we be expected to remain here, so we can plan for late afternoon or evening.

THE COURT: I am not going to sit into the evening. By evening I mean after 6:30, 7 o'clock, unless there is unexpected demand by the jury to do so. My feeling is we will be away from here 6:30 or 7 o'clock.

MRS. ROSNER: Your Honor, since you have finished the conspiracy aspect of the charge, might it be appropriate to take exceptions to as much of the charge as you have done now or will we take it all at the end?

THE COURT: We will wait. 2:10. Counsel, please be prompt.

(Luncheon recess)

AFTERNOON SESSION

(2.10 p.m.)

(In open court; jury present.)

THE COURT: Now, ladies and gentlemen, it was called to my attention over the lunch hour that there are two matters that I make sure we are all clear about as to things that I earlier covered.

I had charged you that mere association with one or more of the conspirators did not make a person a member of the conspiracy. I also charged you that knowledge of the conspiracy without participating in it does not make a person a conspirator.

I want to further charge you that mere association with a conspirator, even coupled with knowledge of the conspiracy, is not sufficient by itself to convict.

Now also in charging you on the old law you will recall I pointed out that it was a requirement of the old law that you find that the heroin or cocaine had in fact been imported into this country and that the defendant that you were considering knew of that importation, and in reading the new law I assumed that it was self-evident from that that under the new law there is no requirement that the Government prove importation or any defendant's knowledge as to any importation, but I did not apparently specifically state that to you under the new law, as my narrative explanation of the law, but I charge you that under the new law, unlike the old law, there is no requirement subsequent to May 1971 that the Government prove importation of the heroin or cocaine as you may find, if you find, or prove knowledge by any defendant as to such importation.

Now going on. Counts 2 and 3 of the indictment each charge a particular criminal enterprise. The Control Substances Act, Section 848 of Title 21, United States Code makes it unlawful for one to engage in a particular criminal enterprise or in a series of violation of the Federal Narcotics laws in concert with five or more other persons with respect to whom one occupies a supervisory or managerial position and obtains substantial income.

The statute, Section 848, to the extent that it's relevant for us here reads as follows. Prohibits a person from engaging "in a continuing criminal enterprise" and defines that as follows.

For purposes of that subsection, a person is engaged in a continuing criminal enterprise if the violatio is a part of a continuing series of violations, this subchapter or Subchapter 2 of this chapter, A, which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position or any other position of management and B, from which such person obtains substantial income or resources. That's the statute.

Count 2 is asserted only against defendant Juan Antonio Alvarez. Before you can find him guilty of the crime charged in Count 2 you must be convinced beyond a reasonable doubt that the Government has proved each of the following elements.

First, that defendant Tony Alvarez committed one or more of the offenses charged in Counts 4, 5, 6 and 7 of the indictment. These counts as you will hear when I get to them charge that specific substantive offenses were committed by Juan Antonio Alvarez and also by defendants Angelo Rodriguez and Luis Sureda.

Second, that the offenses charged in Counts, 4, 5, 6 and 7 of this indictment are part of a continuing series of violations by the defendant Juan Antonio Alvarez of the Federal Narcotics laws.

Third, you must find that the defendant Juan Antonio Alvarez undertook to committ such offenses in concert with five or more other persons, and the Government submits to you that it has proved that with regard to Luis Sureda, Amada Turin, Lazaro Turin, Nelson Alvarez, Angelo Rodriguez and Jack Brown who it contends are such persons, in concert with whom Juan Antonio Alvarez undertook to commit such offenses.

Fourth, you must find the defendant Juan Antonio Alvarez occupied a position of organizer, a supervisory position or other position of management with respect to these persons whose names I've just given you.

Fifth and last essential element which you must find proof beyond a reasonable doubt is that from the continuing series of violations defendant Juan Antonio Alvarez obtained substantial income and resources.

Count 3 is asserted only against defendant Frank Moten. Before you can find Moten guilty of the crime charged in the third count of the indictment you must be convinced beyond a reasonable doubt the Government has proved each of the following elements, and they are the same elements but I will repeat them.

First, the defendant Moten committed one or more of the offenses charged in Counts 8, 9, 10 and 11 of this indictment. These counts as you will hear charge specific substantive offenses by Frank Moten and in Counts 10 and 11 also by defendant Bernard Brightman.

Second, you must find the offenses charged in those counts are part of a continuing series of violations by Frank Moten of the Federal Narcotics laws.

Third, that defendant Moten undertook to commit such offenses in concert with five or more persons, and five only are charged in this case. Namely Solon Glaze, John Morris, Bernard Brightman, William Davis here known to us as Bubba, and Jack Brown.

Fourth, you must find the defendant Moten occupied a position of organizer, a supervisory position or other position of management with respect to these five persons.

The fifth element again is the Government must prove beyond a reasonable doubt that from the continuing series of violations if you so find defendant Moten obtained substantial income and resources.

Now let me define some of these element for you, for your consideration.

The fourth element requires you to find, of Counts 2 and 3, that Juan Antonio Alvarez or Frank Moten, whichever count you are considering, was an organizer or manager or person in a supervisory position. In this connection an organizer can be defined as a person who puts together a number of people engaged in separate activities and arranged them in their activities in one essentially orderly operation or enterprise.

The supervisory position as that phrase is used in the statute can be defined as one who manages or directs or oversees the activities of others.

Now under the fifth requirement that Juan Antonio Alvarez or Frank Moten be shown to have substantial income or resources from illicit trafficking in heroin, first let me point to you the context of this count in the underlying statutes, and state that subtantial means something that is real or actual, and the word substantial connotes something having considerable or, emphasize or, value.

I instruct you that the word income here can be simply defined as money or other material resources gained or received from illegal narcotics transactions.

Finally I also instruct you that that does not necessarily mean net income. From what I've said, ladies and gentlemen, it would follow that the phrase substantial income in this kind of a charge should be construed as far as possible in an objective manner, that is to say in order to support a conviction under Count 2 against Alvarez or Count 3 against Moten you must find that a defendant you are considering received what any reasonable person would consider considerable or ample funds from trafficking in heroin or cocaine as an organizer or supervisor or manager.

Now turning to Counts 4 through 30. Before I do that, just so there is no question about your being fully acquainted with what you're dealing with, let me read to you Count 2 and acquaint you with Count 3 as the indictment charges.

Count 2 charges that in or about the 1st day of May 1971 and and continuously thereafter up to and including the date of the filing of the indictment in the Southern District of New York and elsewhere Juan Antonio Alvarez the defendant unlawfully, wilfully, intentionally and knowingly did engage in a continuing criminal enterprise in that he unlawfully, wilfully, intentionally and knowingly did violate Title 21, United States Code, Sections 841 (a)(1), 841(b)(1)(A), as related in Counts 4, 5, 6 and 7 of this indictment which are incorporated by reference herein and did commit other violations of said statutes, which violations were part of a continuing series of violations of said statutes undertaken by the defendant in concert with five or more persons with respect to whom defendant Juan Antonio Alvarez occupied a position of organizer, supervisor, manager, and from which continuing series of violations the defendant obtained substantial income and resources. That's the charge.

Now the charge as to defendant Moten, Count 3. The charges are roughly similar language.

On or about May 1, 1971 Moten in this District and elsewhere up to the date of the filing of the indictment wilfully, unlawfully, intentionally and knowingly engaged in a continuing criminal enterprise, violations so charged of the same sections, but as alleged in Counts 8, 9, 10 and 11 of the indictment, which violations were part of the continuing series of violations of said statutes undertaken by the defendant in concert with five persons. Here the Government charges with respect to whom the defendant Frank Moten occupied a position of organizer, supervisor, manager and fróm which continuing series of violation s he obtained substantial income and resources.

(Continued on next page.)

hph 1

T2 pm

You must read these and give consideration to these charges when you are considering them, and read the charges carefully. I have paraphrased the second one.

Now, Count 4 through Count 30, these counts all charge violations of the federal narcotics laws occurring after May 1, 1971. Therefore, they are all under the new law as you have heard me define it before. Thus, the applicable section, Title 21, U.S. Code 841, which I read to you earlier, providing that it is unlawful to manufacture, distribute or dispense or possess with intent to manufacture, distribute or dispense a controlled substance. Under the new law, as you will recall, there is no requirement that the government prove illegal importation or defendant's knowledge of importation under the substantive sections.

Now, Count 4 reads as follows. Let me say Section 841, I will state to you makes it a crime for any person to distribute or possess with intent to distribute a controlled substance in this case heroin or cocaine.

Count 4 reads: In and about the Fall of 1971, in the Southern District of New York, Juan Antonio Alvarez and Angel Rodriguez and Luis Sureda, the defendants,

hph 2

unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule II narcotic drug controlled substance, to wit, approximately 15 kilograms of cocaine.

Now, with the exception of different allegations as to dates and substances and defendants, the format of the charge is the same for the remaining counts up until Count 30. d2 Various defendants, as you will see, when you reach each one of the charges separately, and I'm going to deal with them a little later in the marshalin of the evidence, but each of these charges is in roughly the same language charging that at or about a particular time a certain defendant did unlawfully, intentionally, knowingly distribute and possess with intent to distribute a narcotic drug substance and then it is alleged cocaine or heroin in a similar manner. You must deal with these separately as you consider your verdict in this case.

And you may recall, I read all of them to you when the trial started, and I'm sure you will consider them.

Before you can find any defendant guilty of any crime charged in any of these counts, you must be convinced beyond a reasonable doubt that the government has proved each of the following elements: First, that o

hph3

or about the date set forth in each count the defendant or defendants named in that count distributed, or possessed with intent to distribute a narcotic drug controlled substance.

Second. This was done unlawfully, wilfully and knowingly.

And, third, that the substance possessed was in fact a narcotic drug controlled substance.

Now let me read those again. These are the substantive counts 4 through 30. The government must prove beyond a reasonable doubt each of the following elements.

First. That on the date set forth in each count on or about that date defendant or defendants named in that count distributed or possessed with intent to distribute a narcotic drug controlled substance.

Second. That this was done unlawfully, wilfully and knowingly and, third, that the substance possessed was in fact a narcotic drug controlled substance.

Now, you will note that one of the elements is distribution and/or possession with intent to distribute. Certain of Counts 4 through 30 charge distribution and possession with intent to distribute either heroin or cocaine while others charge only possession with intent to distribute such substances. I want to stress that as to any defendant who is charged with both distributing and possessing with intent to distribute the narcotic drug, it is sufficient if you find beyond a reasonable doubt that he or she either distributed or possessed with intent to distribute the narcotic drug. You need not find both.

What do these phrases mean? Well, the word "distribute" means the actual constructive or attempted transfer of the drug.

The word "possessed" has its everyday meaning, that is, to have something within your control.

And to have something within your control does not necessarily mean that you have it in your hand or in your pocket. Control may be demonstrated by the existence of a working relationship between the person having such control and the person with actual physical custody. And so the word "intent" refers to a person's state of mind. The term "possess with intent to distribut can fairly be stated to mean to control an item with the state of mind or purpose to transfer that item.

Possession may be of two kinds. It may be actual physical possession of narcotics where the narcotics are in the actual custody of a person.

Constructive possession means that although the goods are in the physical possession of somebody else, if a defendant knowingly has the power to exercise control over them or their distribution or what is done with them, then that defendant has constructive possession. It is not required under the law that the government prove in each instance that a defendant had actually physical possession of the narcotic drugs in question. Proof of constructive possession is sufficient. Such possession need not be exclusive but may be shared with others. Moreover, it may be proven by circumstantial as well as by direct evidence. However, mere presence in the area where a narcotic drug is discovered or association with a person who controls the drug where it is located is insufficient to hold a finding of possession.

As an example, with respect to Count 19, which charges both William Hightower and Lois Sampson in a substantive count, the government does not contend in that count that William Hightower had in his hand in the Southern District of New York, and I am charging you that you must find the possession that you are required to find, that you must find that possession occurred within the Southern District of New York. The government does not contend William Hightower had in his hand in the Southern District of New York three-eighths kilograms of cocaine.

hph 6

d3 The government contends that the defendant Lois Sampson possessed that cocaine in New York which she had received from Jack Brown for delivery to Hightower in Washington, D.C. and that Hightower who had purchased or agreed to purchase it had authority to see to it that she gave him the cocaine and that in fact she received it from Lois Sampson.

d4 These facts, if you find them, would be an illustration of constructive possession by Mr. Hightower in Washington of narcotics that Lois Sampson had in the Southern District of New York for delivery to him at his command or under his control. That would be sufficient, if you found beyond a reasonable doubt, to meet the possession requirements of the first element

Now as to the second element. "Knowingly" means to act purposely and deliberately rather than to mistake, inadvertence or other innocent reasons. In short, one is aware of what one is doing. "Wilfully" means to act intentionally with a bad purpose either to disobey or disregard the law.

Of course, to be acting unlawfully it is not necessary that a defendant knew that he or she was violati any particular law. Rather it is sufficient if you are convinced beyond a reasonable doubt that the defendant was aware of the general unlawful nature of his or her act or acts.

Now, knowledge and intent exists in the mind. Since it is not possible to look into a man's mind to see what went on, the only way you have for arriving at a decision on those questions is for you to take into consideration all the facts and circumstances shown by the evidence including the exhibits and to determine from all such facts and circumstances whether the requisite knowledge and intent were present at the time in question. Direct proof is unnecessary. Knowledge and intent may be inferred from all surrounding circumstances. As far as intent is concerned, you are instructed by me that a person is presumed to attend the natural and probable, ordinary consequences of his acts.

Now as to the third element. The indictment charges, and you must find as to each of these counts that the narcotic drug control substance is either heroin or cocaine. I instruct you as a matter of law that heroin or cocaine are narcotic drug controlled substances. You, however, must still beyond a reasonable doubt that the substance that the charge is concerned with is in fact heroin or cocaine as charged in the specific count you are considering.

As I instructed you earlier, it is not necessary in order for the government to prove its case of conspiracy to violate the narcotics laws that there be proof of actual dealings in narcotics. All that need be proved is that there was an unlawful agreement and an overt act committed in pursuance to the agreement. The conspiracy is a crime in and of itself, separate and apart from the crime of importation, purchase, sale and transportation of narcotics. The rule is different, however, with regard to the substantive violations of the narcotics laws about which I am now instructing you. Here you must be convinced beyond a reasonable doubt that the substance distributed or possessed with intent to distribute was in fact a narcotic drug. But it is not necessary to be proved by direct evidence. Just as with any other component of a crime, the existence of and dealing with narcotics may be proved by circumstantial evidence if you credit it. There need be no sample placed before you nor need there be testimony by a qualified chemist so long as the evidence furnishes you with a reasonable ground for inferring that the material in question is narcotics.

There are several categories of circumstantial evidence which you may consider in determining whether

hph 9

a given defendant possessed the narcotics drug as charged:

1. The testimony that someone had personally tested samples from the powder.

2. The secretiveness and deviousness in which the transactions were handled, such as for example code words or concealing the substance.

3. The fact that the substance in which they were dealing was a whitish or brown powder.

4. The high prices paid in cash for the substance.

5. The lack of complaint on the part of purchases.

6. Descriptive language used in certain transactions.

7. Actual or stipulated testimony by qualified experts that such substances were indeed heroin or cocaine.

These are matters to which you can look, which if they commend themselves to you would justify you finding that the substance charged was in fact a narcotic drug.

As an example, the government contends that Juan Antonio Rodriguez delivered cocaine to Jack Brown on several ocasions; Frank Moten delivered on two occasions cocaine to Jack Brown. The government contends on two occasions the participants used a portion of the merchandise to test whether it was cocaine, and Brown has testified that it was. In addition, several of the United States and state chemists have testified various substances found or seized at various times were or contained traces of narcotic drugs. This is the kind of evidence that is suggested to you by the government.

I also wish to charge you with respect to the substantive counts. In order to find that a defendant aided or abetted another in possessing a narcotic drug controlled substance with intent to distribute it, you must be satisfied that the particular defendant in some way knowingly associated himself with the criminal venture in a meaningful way, knowingly participated in it as something he wished to bring about by some action of his to make it succeed, that he had a stake in its outcome. In other words, is one fully aware of what he is doing plays a significant role in furthering a transaction prohibited by law, he is an aider and abettor, and as such he is equally guilty with the person who directly performs the illegal act or acts which constitute a crime.

I am going to take a 30-second rest.

(Pause) Now, accordingly when you are considering the charges in the indictment and you observe that beneath a particular count the statute violated refers to Title 18, United States Code, Section 2, you may consider the applicability of these instructions on aiding and abetting with respect to those counts. And for your guidance, those counts are 4, 5, 6, 7, 10, 11, 13, 18, 19 and 20.

As an example with regard to Counts 11 and 12 for example, in which defendants Moten and Brightman are charged, the government contends that you may find Moten guilty of offenses if you find beyond a reasonable doubt defendant Brightman possessed with intent to distribute cocaine on or about the dates charged and that defendant Moten aided and abetted him in that
d7 possession.

The same view would apply with respect to 4, 5, 6, 7, 13, 18, 19 and 20.

Now, much of the evidence which the government adduced was in support of the conspiracy count. However, much of the same evidence the government contends also supports the substantive counts of the indictment. If the evidence relates to and is connected with the conspiracy count and the substantive counts, there is nothing inconsistent in using parts of the same evidence to prove that a particular defendant committed a substantiv crime and also to prove that he or she was a member of a conspiracy. By this I mean that if, for example, you find that a defendant is a member of the conspiracy charge with Parker and Brown and if you credit Michael Parker's testimony that he was told by Brown that Jack Brown sold drugs to a particular defendant on a particular day, and this sale is also charged as a substantive count, you may consider this evidence in determining whether that defendan committed a substantive offense charged.

Now, ladies and gentlemen, I am going to do what is known as marshal the evidence for you, which means that I am going to give a rather full but not intended to be a completely exhaustive resume of the proof that you have heard over the weeks of testimony that had been taken here. I am going to do this count by count and defendant by defendant. The task is not an easy one either to do or for you to listen to, but I feel that it will be of assistance to you. In fact, I feel it is necessitated in this case because of the number of persons involved and would be of aid to you so that you may judge fairly and carefully each and every defendant separately and individually as I have instructed you a number of times here and I am sure I will again before I finish.

In the course of this, I will endeavor to marshal evidence as accurately as I recall. If I have made a mistake, it is your recollection alone that governs, you are to reject anything in your mind that does not accord with the testimony as you heard it from any witness. You are not to take anything I say as binding as to what the testimony was, upon you.

The fact that I may refer to certain evidence or testimony and may not refer to other, does not mean that I consider that part to which I refer any more important than any other for as I said earlier, all the evidence in the case, testimonial and documentary of every kind, is important and you are to consider it all in the course of your deliberation whether I refer to it or not. I am also going to be giving you contentions of the government from time to time and the contentions of various of the defendants in the course of my marshaling. I want to state at the outset that you are to consider all of the contentions, whether they are referred to by me or not, as you have heard them raised by the attorneys in their summations, and also to point out at the very outset that virtually all defendants have contended, so I say this as a blanket statement, virtually all defendants have

hph 14

contended and urged upon you that the major government witnesses that you have heard or untruthful and unworthy of belief. I don't necessarily repeat this contention each time I deal with any specific defendant's contentions individually.

Now, in summary, the government contends that the evidence shows a single conspiracy among all the defendants to purchase, process and resell narcotic drugs, specifically heroin and cocaine; that the conspiracy was in existence within the period January 1, 1968, up to April 5, 1976. The government contends the hub of this conspiracy was alleged co-conspirator Jack Brown who had at his command sources and outlets for narcotic drugs as well as the services of others such as Michael Parker to act as a courier. The government contends Brown had good sources of cocaine in Miami, specifically Tony Alvarez, and Angelo Rodriguez and those surrounding them there such as Sureda,Nelson Alvarez; that he had heroin suppliers, Sebastian Intersimone, Capra, Dellacava in New York City. The government contends the valuable association of Frank Moten acting as a banker and financier, acting in concert with each other obtaining cocaine for Brown which it was in short supply, financing operations of certain co-conspirators and sharing in the profits of the conspiracy.

d8 It is claimed by the government that Brown having obtained heroin and cocaine from the sources I have described, thereafter sold the drugs to lower level wholesale narcotics traffickers including defendants Hightower, Foster, Joseph Sampson also known here as Boot, his wife Lois Sampson in Washington, D.C., defendant Schennault and O'Dood for distribution in Chicago, J.P. Morgan in Philadelphia, Tommy Davis from New Jersey, L.J. Mitchell and Bernard Brightman also from New Jersey, and others, including Don Wilson, James Laws, also known as Tobe, John Morris known as Papers, Solon Glaze, Raphael Bonilla, also known as Little Michael or Spanish Michael, Charles Cowpers known as Shi and his wife Marion Dunmore known as Toni and Albert Lee Jones also known as Al from Norfolk. All those latter in New York City. Others are named as co-conspirators but need not be included in this summary. They do include however such persons as Bubba Davis of Boston, Amada Tarin and Lazaro Tarin of Miami, and the Yaujars who apparently picked up money as couriers. The government contends that Brown bought and sold this heroinin New York City, later in Orangeburg and back in New York City including an area in Brooklyn, then went to Miami, Florida, and finally ended up his activities in Washington, D.C. The government contends the proof shows that he received cocaine in multi-kilogram quantities from the Alvarez-Rodriguez group in Miami and relatively smaller quantities and on two occasions from Frank Moten in New York City; that he received the heroin in multi-kilogram quantities from the Capra-Guarino-Dellacava group in New York and the defendant Sebastian Intersimone.

The government contends that during this period Tony Alvarez went from Miami to Venezuela and Ecuador to check up his sources on cocaine in these countries.

As to Count 2, which is solely a charge against Juan Antonio Alvarez in summary the government contends that it has proven transfers of large amounts of cocaine from the defendant Tony Alvarez to Jack Brown. The governmen contends Tony Alvarez occupied a position of organizer, supervisor and manager with respect to at least five of the following persons in connection with the narcotics business: Jose Luis Sureda, Amada Tarin, Lazaro Tarin, Nelson Alvarez, Angel Rodriguez and Jack Brown.

The government contends defendant Sureda and Nelson Alvarez were couriers on behalf of Tony Alvarez seeing cocaine got to the right places and Sureda was not only a courier, but stored money in the safety of his own and Tony's brother Nelson Alvarez as not only a courier but built traps to conceal the proceeds and narcotics when the situation required. The government contends from the continued violation, substantive count 4, 5, 6, and 7, Tony Alvarez acquired a substantial wealth. As proof of that, the government contends that it has shown Tony Alvarez with little reported income, and massed substantial holdings in real estate such as the interest in the Miami Jockey Club, and caused a $100,000 certificate of deposit to issue, $75,000 of which it is contended went back to him.

Count 3 in summary is a claim against Frank Moten. The government contends it has proven that Frank Moten was an organizer, operator, supervisor and controller and a profiteer of dealing in narcotics and he controlled five persons, to wit, Solon Glaze, John Morris, known as Papers, Bernard Brightman, Bubba Davis and Jack Brown, that he engaged in the continuing series of narcotics violations some of which are charged in Count 8, 9, 10 d9 and 11 of this indictment. These substantive counts charge possession either directly or constructively of narcotics with intent to sell or distribute. The government contends that in occupying a position of organizer and supervisor or manager as to the five persons I have named to you, Moten financed the narcotics operation of Solo Glaze and John Morris, acted as a banker-adviser and launderer of money for Jack Brown as well as fixing a criminal case for Brown in New Jersey, that he backed Bernie Brightman's entry in later activities in the narcotics field, that he would check with Brown as to who should be dealt with, who should not. The government contends that the defendant Moten obtained from this substantial income of resources and points to the moneys he was changing on behalf of Forest and her predecessor, Mr. Arroyo, in the Chase Manhattan Bank and the home he lives in Englewood apparently is in the $100,000 bracket.

There now follows the indictment, as I have said, 27 counts, 4 through 30, all of which charge various defendants with knowingly distributing or knowingly possessing with intent to distribute narcotics drugs, cocaine or heroin, in various quantities. Each count charges the defendants named therein with knowingly, intentionally and knowingly doing a certain act of acts. For the sake of simplicity, as I go through the counts one by one, I am going to leave out the three words: unlawfully, intentionally and knowingly" and that it is done in the Southern District of New York, but I charge you that each count includes those words and as you listen to me you are to consider my charge as if I repeated those words in discussing each count.

Count 4 charges in or about the fall of 1971 in this district Tony Alvarez and Angel Rodriguez, together with Sureda did distribute and possess with intent to distribute approximately 15 kilograms of cocaine. The government contends the proof with respect to this count shows in late '71 Tony Alvarez and Angelo Rodriguez came to Sureda's home in Miami with a heavy valise, money for an airplane ticket to New York and told Sureda he would be met by them in New York the next day, that Sureda was to take the valise and was instructed not to use his name in purchasing a plane ticket and the next day he was met at the New York Airport by Tony and Angel where they took him by cab to a place in Astoria, where he gave them the valise and from where he was taken back to the airport and went back to Miami and was paid $3,000. The government contends the proof shows thereafter Tony and Angel went to Jack Brown's in New York where they delivered the narcotics.

Now, as to defendant Juan Tony Alvarez, I am going to intersperse the count with the proof as to individual defendants according to the government's contention and the contentions of the defendants. Defendant Juan Antonio Alvarez is charged in Count 1, Count 2 and 4, substantive Count 4, 5, 6 and 7. After June or July of 1968, Jack

Brown testified that he saw Angelo Rodriguez in Miami after Rodriguez had moved there; he had had prior narcotics dealings with Rodriguez, he testified. Angel called Brown to say he was coming over with a friend and he came over with Tony Alvarez. Rodriguez said Alvarez had a kilogram of cocaine of so-so quality which he wanted to sell. Brown tasted the cocaine in order to test it and found that it was not too good but nonetheless, agreed to purchase it. Brown testified that in October of '68, back in New York by prearrangement, Rodriguez and Tony Alvarez came to his apartment with two suitcases containing cocaine. Before they came, Rodriguez said Tony Alvarez had made a big score and asked Brown if he could move a large quantity.

Brown said that he thought so. The suitcases contained 15 to 16 kilograms of cocaine. Brown said that it would take a while to move. The price was $11,350, or $11,500 per kilogram. They tested it. Brown testified it was nice, good with nice color.

Tony Alvarez wanted some of the cocaine and Brown gave him some to sample. According to Brown Rodriguez and Tony Alvarez stayed for a few days until Brown could get some money for the cocaine. He further testified in March '69 he received a second shipment of cocaine from Rodriguez and Tony Alvarez. They came up to his apartment at 60 Riverside Drive and told him the shipment had come in and they were expecting it that night or the next day.

They left and the next day both returned. That night someone rang the bell and introduced himself and Angelo said, "That's the fellow." When the person came up Brown was introduced by Tony Alvarez to Luis Sureda and Alvarez said it was his brother-in-law. Sureda Brought two suitcases with him which he left. The suitcases contained 15 to 17 kilograms of cocaine of good quality.

According to the testimony of Sureda he met Tony Alvarez in 1968 in Miami and was introduced to him by his sister Amada Turin. Sureda testified his sister told him that Tony Alvarez was in the cocaine business and Alvarez eventually admitted he was to Sureda, according to Sureda'a testimony.

Thereafter Sureda had many conversations with Alvarez about cocaine. Tony Alvarez told Sureda the details of the cocaine business, that he received it from South American countries by Airplane to Miami. That he took it to a store he owned in Coral Gables, World Center Import, and received it hidden in picture frames and secreted in other ways.

Sureda testified he met Angelo Rodriguez in '69 and he knew Tony Alvarez' brother Nelson since he arrived from Cuba. Sureda also testified to five trips he said he made for Tony Alvarez and Angelo Rodriguez, four of which I charge you are involved in Counts 4, 5, 6 and 7.

Brown testified that in 1970 he introduced Frank Moten to Tony Alvarez and Angelo Rodriguez at the Muhammed Ali-Frazier fight in Miami, Florida. In January 1973 Brown received a shipment of cocaine in Orangeburg, New York. That is in Rockland County in the Southern District as I've charged you. If you credit the testimony that it occurred there I charge you Orangeburg is in the Southern District. This is the shipment charged according to the Government in Count 6 which according to Luis Sureda was his fourth trip for Tony and Angelo and his first by train.

Brown testified that Bernie Brightman was at his house blowing cocaine with him. Brightman wanted some cocaine and Brown told him he was waiting for some. During this talk Rodriguez and Tony Alvarez came by and Brown introduced Rodriguez to Brightman as Brightman was leaving on Brown's request so that Brown, Rodriguez and Tony Alvarez could talk business. Tony Alvarez said he was expecting a shipment and he and Rodriguez came back the next day carrying two small suitcases each of which contained seven and a half kilograms of cocaine. The bags had false bottoms in them so that the money could be carried without being noticed.

The arrival of Tony Alvarez and Angelo Rodriguez at the time Brightman was asking for cocaine prompted Brightman, according to Brown's testimony, to remark that Moten had told him that he, meaning Jack Brown, was psychic. Brown testified that in May 1973 when he was in Coney Island Rodriguez came to see him and said he was waiting for Alvarez to arrive, and when Alvarez did arrive that he was waiting for Sureda to come with a package.

A few nights later Rodriguez called and told Brown to come over to Angelo Rodriguez' uncle's place. He then drove him there and inside with Tony Alvarez, Rodriguez and Sureda with 14 or 15 kilograms of cocaine for him.

Brown testified that in the summer of '73 he received a call from Angelo Rodriguez to the effect that Rodriguez and Tony Alvarez would be soon coming up. In the course of time Brown asked Michael Parker to take Tony Alvarez and Angelo Rodriguez to Pennsylvania Station to meet Sureda. Parker left with them and returned with Sureda bringing two suitcases containing 17 or 18 kilograms of cocaine.

At the end of '73 Brown called Tony Alvarez and said he was coming to Florida. He went to Florida and Sureda met him and took him to Alvarez' house where Alvarez said, "My house is your house," and room was made available to him, according to Jack Brown's testimony.

January '74 he had a conversation with Alvarez about a shipment Alvarez had been expecting earlier in the month. Tony said he was going to make a trip to Venezuela if he didn't get any news of it within a few days, and then go to Ecuador.

Brown took him to the airport and had a talk with him two weeks later when he got back. The problem was caused he said by a revolution going on in Ecuador.

Third week of February, Rodriguez knocked on Brown's door and Brown went downstairs. Tony Alvarez was with him and they brought up two suitcases and there was 16 or 17 kilograms of cocaine in there.

Brown paid for the cocaine testifying that when he went to Florida he took $160,000 to $170,000 with him and gave it to Tony Alvarez to hold for him. Tony Alvarez had a safe secreted in the floor of one of his rooms.

In May of '74 Brown received another delivery of cocaine. He received a call from Tony Alvarez and went to his brother Nelson's house with Pennie Perez, who Jack Brown had met in '71, and who was now living with him. Tony Rodriguez and Tony Alvarez were waiting outside. Tony left and returned with a green plastic garbage bag, put the bag in the trunk of Jack Brown's car. Jack and Pennie left, and when they got back Jack found 18 to 20 kilograms of cocaine in the garbage bag.

Brown testified that Tony Alvarez told him he had used the four cottages behind his house as a stash since his brother Nelson Alvarez had built traps in them. Jack Brown saw a trap under the stove at 666, and Tony

Alvarez told Brown that Nelson had built them for him and that if Jack Brown needed one that Nelson would build one for Jack Brown. Brown lived in one of the Tony Alvarez' cottages for a period of time but eventually got another apartment at 120 Biscayne Boulevard. Brown kept that cottage when he moved to the new apartment.

Lazaro Yaujar testified that he knew Tony Alvarez, that Rodriguez brought him to his apartment in 1971. At the time Angelo Rodriguez came to New York he came with Tony Alvarez. He testified that after his parents left for Miami Tony Alvarez and Rodriguez always stayed in his apartment. He first met Nelson Alvarez when Tony Alvarez and Angelo Rodriguez brought him one time.

Michael Parker testified that Brown introduced him to Tony Alvarez and Angelo Rodriguez at the Muhammed Ali fight in Atlanta in 1970. He testified that when he became involved in Jack Brown's drug business Brown told him the sources of cocaine were Angelo Rodriguez and Tony Alvarez.

In late October 1971 Rodriguez came with Alvarez to see Brown, according to Parker, and the three of them went in the back bedroom. Parker testified that in January '73 there was an occasion when Brown became because a kilogram of cocaine had turned color and Brown called Angelo. He was then in Orangeburg. He told him that "Something is wrong with your jewelry. Come right away."

That afternoon Rodriguez and Tony Alvarez came to Orangeburg.

The Government also commends your attention to documentary proof and evidence showing among things car rentals and airplane flights as to Tony Alvarez. They call to your attention the testimony of Schlomo Ayal who worked for the Leumi trust company of New York. You will recall that he testified about time deposit certificates issued in 1974 in the amount of $100,000 in the names of Pimentel andJuan Antonio Alvarez.

The Government's contention with respect to that transaction is it was essentially an attempt by Alvarez to legitimatize the money earned by him through his illegitimate narcotics drug business.

The Government also calls your attention to Tony Alvarez holding in real estate, and the Jockey Club in Miami. Further there is a stipulation between Counsel for Tony Alvarez and counsel for the Government that Tony Alvarez knew that this trial would commence on August 10 of 1976.

dws

I am going to take a recess for about 30 seconds.

(Pause.)

THE COURT: Now Count 5 charges in or about October 1972 Tony Alvarez and Rodriguez and Sureda did distribute and possess with intent to distribute approximately 15 kilograms of cocaine. The Government contends that proof with respect to this count shows a transaction toward the end of 1972 when Tony and Angelo again came to Sureda's home with two valises.

Sureda was instructed to fly to New York. Tony and Angelo were waiting for him on arrival and took him to an apartment in Astoria where they told him that he might have to take money back to Miami and should wait over. He did and did not take any money back. That thereafter the Government contends Rodriguez went alone to Brown's 96th Street apartment in Manhattan and there delivered to him 15 or 16 kilograms of cocaine.

Now marshaling the evidence as to Angelo Rodriguez in connection with this count in which he is involved, and I may as you will be aware possibly be somewhat repetitious, if you place it, but that cannot be helped.

Defendant Angelo Rodriguez is charged in Count and in Counts 4, 5, 6 and 7. Brown testified that he met Angelo after he was released from the Atlanta penitentiary in 1964 at which time Brown would sell to Rodriguez the stolen merchandise which was the proceeds of burglaries that he and one Filipino Tony were involved in.

Rodriguez had a jewelry store on Broadway between 153rd and 154th Streets. Brown further testified that as a result of his introduction by Filipino Tony he and Todriguez became closely acquainted. Brown said he used to go up to Angelo's shop quite often and there came an occasion when he was in the store and asked Rodriguez if he wanted a blow, meaning did he want to snort cocaine. And Angelo told him, no.

Brown further testified that at some time later he again went to the store because he had a ring to have cleaned and a watch, and Rodriguez at that time closed the shop and took Brown downstairs to the basement and started to test some cocaine that he had with water. Brown according to his testimony told Rodriguez that was the wrong way to do it and would show him what he, Brown, considered the right way.

At that time Rodriguez told Brown he had someone who had a kilogram of cocaine and asked Brown if he was interested in buying it. Brown told Rodriguez that he was if it was good. It was apparently not that good but Brown agreed to buy it upon testing.

In the middle of '68 Brown learned that Rodriguez was moving to Florida. Before he left Brown had one more occasion to purchase a kilogram of cocaine from him. After June or July of '68 Brown testified he saw Rodriguez when he went to Miami on a vacation. He spok to him on the phone and Angelo said he was busy but he woul get back to him and he would try to get over when he had time. The next day Rodriguez called Brown to say he was coming over with a friend who turned out to be Tony Alvarez

Rodriguez said that Tony had a kilogram of cocaine of so-so quality which he wanted to sell. They agreed on a price. Tony Alvarez brought the cocaine which was not too good but Brown purchased it anyway.

Brown testified that in October of '68 he received a phone call from Rodriguez from Miami who said he would have news soon and would becoming to York. Rodriguez said that Alvarez had made a big score, and Ton Alvarez asked if Brown could move a large quantity. Bro thought he could.

Several days later Rodriguez and Tony Alvare came to Brown's apartment in New York carrying two suitc containing 15 to 16 kilograms of cocaine. Brown said it would take quite a while to move. They tested it and Brown testified it was good with nice color. I believe I gave that before.

In March '69 he received a second shipment from Rodriguez and Tony Alvarez. Rodriguez and Alvarez arrived at Brown's apartment at 60 Riverside Drive. Sureda came and brought two suitcases with him containing 15 to 17 kilograms of cocaine of good quality. Sureda testified he met Angelo Rodriguez in 1969.

Brown testified during an occasion in '71 when he complained in a conversation with Angelo Rodriguez he was only making a point or a point or a point and a half per kilogram of cocaine, meaning 10 to 15 percent.

Brown testified that he had a conversation in which, they, he and Rodriguez, discussed Brown making payments for the cocaine to Angelo's uncle to save Angelo from making so many trips. Angelo's uncle did pick up money from Brown on 10 or 12 occasions during the period 1971 until Brown moved to Florida.

Brown had testified he also saw Angelo's uncle in the latter part of 1972 in Florida and he gave him $35 to $50,000 at his 180 West End Avenue apartment. According to Brown sometimes Angelo's cousin would come.

dws

On three or four occasions he, the cousin, came to 96th Street and he also came to Orangeburg in 1972.

Brown testified to an occasion in the fall of 1971 when Rodriguez called him at the 56th Street apartment and Rodriguez told him that he had received three diamonds. That Luis was coming up by train. Brown testified that the train was late and that Rodriguez met Luis downstairs and got two suitcases.

Brown testified that in 1970 he introduced Frank Moten to Tony Alvarez and Rodriguez at the Ali-Frazier fight in Miami.

In 1973 Brown received a shipment of cocaine in Orangeburg. This is the shipment the Government charges is involved in Count 6 which according to the testimony of Sureda was his fourth trip for Tony Alvarez and Angelo Rodriguez and his first by train. Luis Sureda said that this is th occasion upon which Brown testified that Alvarez and Rodriguez came carrying two small suitcase each with seven and a half kilograms of cocaine, the bags having false bottoms so that the money could be carried without being noticed.

Brown testified in the summer of '73 he receiv a call from Angelo Rodriguez to the effect that he and

Tony Alvarez would soon be coming up. In the course of time Brown asked Parker to take Alvarez and Rodriguez to Penn Station to meet Luis.

Parker left with them and returned with Sureda bringing two suitcases containing 17 or 18 kilograms of cocaine.

At the end of 1973 Brown went to Florida during a week in February in '74. Rodriguez and Tony Alvarez brought him two suitcases with 16 or 17 kilograms of cocaine. In May '74 Jack Brown received another delivery of cocaine. This is Angelo Rodriguez and Tony Alvarez met him, Tony leaving and returning with the green plastic garbage bag about which I've spoken to you earlier.

Lazaro Yaujar testified that he was born in Cuba and moved to Miami in '63 and went to New York in 1973 living ith his mother and father in Jamaica, Queens. That in the fall of '72 his parents moved to Miami. He testified that Angelo Rodriguez was his cousin and Rodriguez moved to Maimi in 1968. He testified that every time Rodriguez came to New York he would visit the Yaujars and during the period 1968 to '71 he would come every one or two months and that he would come more often after 1971.

Lazaro Yaujar testified that he knows Tony

Alvarez, that Angelo Rodriguez brought him to his apartment in '71 and that half the time he brought Alvarez with him when he came. He testified that after his parents left for Miami Tony Alvarez and Rodriguez would always stay in his apartment. He met Nelson Alvarez when Tony Alvarez and Angelo Rodriguez brought him one time. He also says he met him twice in Miami.

Yaujar testified about a telephone call from Angelo Rodriguez to his father, Eduardo Yaujar, that his father picked up money from Brown whom he knew at that time as Jack Jordan, and that he, Lazaro Yaujar, saw the money in a paper bag and that Angelo Rodriguez then came and picked it up. That his father did so on three occasions.

In the spring of 1971 Lazaro Yaujar drove his father to Brown's apartment on 66th Street near Central Park. He stayed downstairs. In the period late 1971 and '2 on four occasions he got money from Brown on Angelo Rodriguez' request. He testified that in 1972 he went to Brown's and Brown was distressed because he had just lost his son. He saw Jack Brown take money from under a bed, approximately $25,000, and a few days later Rodriguez picked the money up.

He testified during the winter of '72 Rodriguez had told him to go upstate to pick up money from Jack Brown and it was at a house. Rodriguez told him that the pickups were for his jewelry business and Yaujar said he never got paid for doing this; he didn't know it was for drugs.

In Miami he also learned that Jack Jordan was also called Jack Brown. Michael Parker testified that when he became involved in Brown's drug business Brown told him his sources of cocaine were Rodriguez and Tony Alvarez and that he met Rodriguez in '71 when Angelo came to make a delivery at 180 West End Avenue. Parker says he saw Rodriguez approximately three times at that address. The second time was late in October '71 when Rodriguez came with Tony Alvarez to see Brown and the three of them went into the back bedroom.

In the spring of '71 Parker met Angelo Rodriguez' uncle at the wedding reception for Angelo Rodrituez' daughter. He came to West End Avenue twice to see Brown. Before he came Brown told Parker that the uncle will be coming for money for Angelo Rodriguez. Parker testified he saw Rodriguez twice at Orangeburg, the first time in December of '72.

Brown told Parker that Rodriguez was coming to pick up some money. Rodriguez came and stayed about an hour in Jack's bedroom. Mid-January Parker testified to an occasion when Brown became angry because a kilo of cocaine had turned color and called Angelo and told him that something was wrong with his jewelry. You heard me mention that before. That afternoon Tony, Alvarez and Rodriguez came to the house.

The Government here too commends to your attention the documentary proof and the evidence which it contends as to car rentals and airline flights shows Rodriguez' travel and his whereabouts.

Now defendant Rodriguez on his own behalf points out that Luis Sureda has admitted during the hearing before me which preceded this trial, that he committed perjury. Further that Sureda testified that he told the Government that he testified falsely at the pretrial hearing. Also in Sureda's April 21 statement he stated that "Juan Alvarez was careful to keep me away from him when he was talking business."

Mr. Rodriguez also points out that while four charges that in or about the fall of 1971 in this District Tony Alvarez, Luis Sureda and Angelo Rodriguez distributed and possessed with intent to distribute approximately 15 kilograms of cocaine, that Sureda testified that his first trip to New York City as a courier of cocaine was at the end of 1971.

Rodriguez would also like to remind you that Sureda testified he first met Angel Rodriguez at the end of 1969 and that he, Sureda, testified he made no trips in 1968 or '69. Rodrituez points out that inconsistency, Jack Brown testified that he received his first cocaine shipment with Sureda as a courier in March of 1969. Rodriguez also commends to your attention that Sureda testified that defendant Tony Alvarez told him the cocaine was cut in half and that milk sugar was added.

(Continued on next page.)

hph 1

T4

(In open court. Jury present.)

THE COURT: Ladies and gentlemen, Mr. Black, Mr. Rodriguez's lawyer, has asked me to say to you that the matters that I had observed as to defendant Rodriguez pointing out some things should not be labeled contentions but you should consider them as matters, evidentiary matter during the trial which Mr. Rodriguez wishes to call to your attention in connection with your assessment of the case, and the reason Mr. Black asked me to do this, he is entitled to do it, and he points out logically he has many more contentions, and he doesn't want those to be denominated contentions. I do believe in any event, he is right about that, but I do believe in any event I had urged upon you earlier that you were to consider each and every contention of the lawyers that you heard address you in summation and nothing I was saying to you limited you in that regard. In fact, I directed you to consider them all.

Now, Count 6 charges that in or about January, 1973, Tony Alvarez, Angel Rodriguez and Sureda distributed and possessed with intent to distribute approximately 18 kilograms of cocaine. The government contends that the proof shows in February, 1973, you will recall the charge is January, 1973, that in February, 1973, which

I charge you as a matter of law is not a material variation, Tony Alvarez and Sureda's half-sister, Amada, came to the house with two suitcases, Sureda went by train to Pennsylvania Station, was given a number to call, Sureda was given a spray to use because of the strong odor in the compartment that someone had reported in a previous trip. Upon arrival at Penn Station, Sureda went to Yaujar's apartment in Astoria and there was met by Tony Alvarez and Angel, was given money to buy something for his wife who was having surgery. There was another man there whom he later learned to be Jack Brown. Brown opened one of the bags and testified the contents by tasting it and Brown left the two suitcases. That's Count 6.

Count 7 charges in or about the summer of 1973 Tony Alvarez, Rodriguez and Sureda possessed with intent to distribute approximately 15 kilograms of cocaine. The government contends the proof shows Tony Alvarez and Amada told Surda to stand by, took him to the Amtrak Station at the end of July with two suitcases. This was Sureda's last trip and it is the one on which Sureda testified there were some legal secretaries coming up from a convention, and the train hit a car at a crossing and the government put on an official of the Secretaries' organization and a member of train crew who testified there was such a

hph 3

convention and there had been an accident on the particular day. Sureda testified upon arriving in New York he was met by a camper and a man and a woman in front he did not know, and the government contends it was Michael Parker and his wife, and Sureda was driven to the airport. Sureda turned over the suitcases to Tony and Angel and took a plane back to Miami, and received $6,000 for the trip.

Count 8 charges Frank Moten in September, 1972, with unlawfully, intentionally and knowingly possessing and with intention to distribute approximately 1 kilogram of cocaine. The government contends the proof shows Jack Brown in the summer of '72, specifically some time after mid-August had run out of cocaine for customers and asked Moten to get some for him, Moten said he would, would see if Jimmy Richardson had some and Moten delivered two one-half kilograms packages to Brown at 200 West 90th Street. He had gotten it from Jimmy Richardson who had
d2 gotten it from a man named Chile Marquez

Count 9 is a charge against Frank Moten that a month later in October, '72, he distributed and possesse with intent to distribute approximately 1 kilogram of cocaine. The government contents this is the second of two packages Moten obtained from Brown when he needed it and this transaction occurred approximately three weeks after the transaction alleged in Count 8, that Moten delivered 2 kilograms of cocaine at 200 West 90th Street, and I charge you that as a matter of law while the indictment charges 1 kilogram of cocaine the testimony that it was 2, I charge you was not a material variation.

Count 10 charges Frank Moten and Bernard Brightman with possessing with intent to distribute approximately one-half kilogram of cocaine in January, 1973. The government contends the proof as to this count is a delivery by Brown to Brightman of approximately one-half kilogram of cocaine at Brown's Orangeburg home which Brown testified occurred in January, '73, following a personal delivery from Florida by Tony Alvarez and Angel Rodriguez. The government contends the purchase was financed and backed by Frank Moten. Parker made the delivery in mid-December, 1972, I think it's appropriate to note, and Mr. Brightman has urged upon you he was in Florida at that time and therefore there was no such transaction. I will speak more of this later.

Defendant Moten, I am now going to marshal the evidence as to him, is charged in Count 1, the conspiracy count, Count 3, which charges him with managing and continual criminal enterprise and then Counts 8, 9, 10 and 11. 8 and 9, you will recall, charge him with distributing and possessing with intent to distribute cocaine from Richardson, from Marquez via Richardson. Counts 10 and 11, as I would charge you hereafter, charged Moten and Brightma with possessing with intent to distribute approximately one-half kilogram on two occasions in early 1973. The first was the delivery to Brightman in January, at Jack Brown's Orangeburg house. According to Brown, which delivery the government contends was financed by Moten. There was testimony of Brown, delivery by Brown where Moten and Brightman were present and Moten agreed to stand for a half a kilo --

MR. BELLER: Is this Count 11, your Honor?

THE COURT: Yes.

MR. BELLER: That's at 96th Street, your Honor.

THE COURT: All right, at 96th Street, half a kilo which Brightman got and he, Brown, was paid $10,000 for the half kilo that Brightman had received earlier whic is the subject of Count 10. The government contends that the testimony of Jack Brown establishes that Brown first met Moten in 1954. In '65 to '73 he saw Moten once or twice a month. Then two or three times a week, that in 1965 he told Moten he was dealing again and by '67 he was very close to Moten and Moten became his confidante to w he told everything. In '65 or '66, according to Brown,

hph6

he became associated with Moten in the Harlem Print Shop. Moten wanted Brown to go into business with him. He told Brown to go into business to legalize himself, since Moten knew at the time Brown was dealing in drugs with him. Each put up $10,000 and after three weeks Moten came back to Brown and told him a policeman informed him Brown was back on the active list with respect to narcotics, to watch out; Brown removed from the venture and Brown found a business in the Bronx. Moten changed larger bills from smaller ones continuing in 1966 to '72 when Brown went to Orangeburg. Moten would go to Orangeburg for this. Helen Forest, a teller there and Mr. Arroyo, testified he changed small bills for large on a regular basis. Brown testified there came a time when he would see Moten every day, at 180 West End Avenue, Moten's laundromat on Seventh Avenue and on occasions they discussed Tony Alvarez. Brown introduced him to Tony Alvarez and Rodriguez at the Muhammad Ali-Frazierfight in 1970. In 1969, according to Brown's testimony, he had discussion with Moten about his financial condition. He said he had more money than ever before in his life and Moten told him he was crazy to keep his money with his drugs which Brown apparently did in a trap built into his closet at 180 West End Avenue. Moten suggested to Brown he keep the money for him and use it for his own purposes and pay it back when he needed it. Brown gave him money once a month, $60,000 to $80,000. Brown testified he told Hightower, Bootnose and Intersimone about the financial arrangement with Moten. Occasionally Brown would tell Moten he needed money to purchase drugs from Tony Alvarez and Moten would give it to him from large bills. Brown testified in '71 Moten and Intersimone met in his apartment where he introduced him in March and April to Moten and Intersimone and Brown entered into business transaction. Intersimone had told Brown he wanted to legalize some money. Brown talked to Motel who said he would do it. Motel and Brown went to Boston to see Peter Fiumara who according to Brown's testimony at Moten's request changed $20,000 in cash in a cashier's or certified check made out to Intersimone. The government contends the $20,000 changed was money Moten received as a result of 4 kilograms of heroin which Brown testified Intersimone had sold him in the fall of 1971. In this regard there is substantial dispute as to that date, you may recall Mr. Keegan arguing. I will speak more of that later. In this regard the government calls to your attention the testimony of Peter Fiumara, as to the check made out payable to Intersimone. Fiumara testified he never met Intersimone. He testified the

hph8

check was drawn to a loan company of which he is the treasurer operated under his house. The $20,000 in gold coins was used as collateral although he had never received or seen them and Moten told him he received the gold coins from Jimmy Richardson and Moten's word was good enough for him. He never met Richardson and Fiumara testified he never received interest or payments of principal.

Brown testified to the effect he originally met Willie Womack in '58 or '59. He testified that Womack asked Moten that to get him in touch with Brown a couple of times, Moten refused because Womack was an informer. He testified that Womack started purchasing drugs from him in 1970. In '71 Brown learned that Moten and Womack had a business relationship in Spain and Moten said he got $100,000 from Womack. In 1972 Brown was in Las Vegas with Moten, Brown and Joseph Sampson. Moten took a telephone call, came back and found Willie Womack and Luis had been killed. Brown testified he first met Bernie Brightman when Moten moved to New Jersey in the latter part of 1965, early '66. Until '69 he saw Brightman only occasionally when he went to visit Moten. Brightman started purchasing drugs from Brown in 1972. Moten told Brown that Brightman was doing badly and wanted to start doing something. Moten was against it, eventually Brown said he was ready

hph 9

to give Brightman some stuff and Moten said he would be responsible if Brightman didn't pay. On that first occasion Brown gave Brightman an eighth of a kilo of cocaine, less than an amount that Mot   took out of the packae. According to Brown's testimony he moved to Orangeburg in September, 1972. Brown told Moten he was bying a house in Orangeburg for $71,000 and putting it under his own name. Moten said that was a mistaken. He said Brown could not show visible means to earn such amount of money, was inviting trouble with Internal Revenue Service. Moten sugested that Brightma would be an ideal person to stand in for him since he had a number of legitimate businesses at the time. Brightman wanted something in return, one-half kilogram of cocaine. Moten told Brown to give him five or six thousand dollars. Brightman according to Brown said it was not enough and he wanted $10,000, which was agreed upon.

d3

Brown testified that after he went into hiding and while living in Brooklyn, he saw Moten. Moten was bringing him money that Brightman owed Brown, and see how Brown was doing. In February or March, '74, Brown saw Brightman and Brown in Florida. Moten told Brown Brightm wanted to buy cocaine since Brightman had good customers now and wanted to keep them. Moten accompanied Brown to Brightman's mother's home. Brown testified he gave Brightm

2 kilos of cocaine which Brightman testified by burning some of it on tin foil and Moten again said he would stand up for Brightman.

Brown testified that when he got into trouble after he moved into an apartment complex at Fort Lee in late '69, Moten fixed the case for him and got it dismissed for $15,000. That was the occasion Brown testified having shot a bullet through the door thinking that someone was trying to break into his apartment, the person turning out to be a carpet in the hallway. Brown testified he met Moten at the time of his wedding to Jackie Brown in late June, '69. He said he came to New York after a conversation, Brown saying he could get Parker jobs in New York. Parker came to New York and started working in Moten's Harlem Print Shop where he worked for some six months and stopped. During the period February, '71, to '72, Parker said he saw Moten very often two or three times a week though not every week. He saw him at the laundromat, 180 West End Avenue, 66th Street apartment, 56th Street and at the QE2 bon voyage party and Moten's house in Englewood, New Jersey, and other places. He said when Moten would come to one of the apartments, he would go into a back room with Brown. On one occasion he saw perhaps fifteen to twenty thousand dollars in Brown's bedroom on

hph 11

the floor. Brown told Parker he was getting ready for Moten and Moten was coming to pick it up. When Moten arrived he went to the bedroom with Brown, left a half hour to an hour later and Parker was not in the bedroom with him. Parker testified on one occasion Brown told him Moten had $70,000 of his. Another time $100,000. A couple of times Brown told Parker he would call Frank Moten and told him to bring some money. On one occasion, according to Parker, Brown said he did it because Angel was coming to pick up some money. Parker testified on occasion in the middle or late part of March, '71, when he drove to Boston with Frank Moten they left early in the morning and Moten drove. He drove at a speed limit or four or five miles below. At the end of the day, they went to Bubba Davis' home and stayed one or one and a half hours and when Parker came to New York, he told him about the speed he drove to Boston and Brown explained Moten drove that way because he took an ounce of cocaine to Bubba Davis. Brown testifi he met Bubba Davis through Frank Moten in '67. Moten brought Davis to Brown's Riverside Drive apartment. Brown testified he sold cocaine to Davis for personal use, direc or indirectly until '73. The direct sales were made according to Brown when Bubba Davis would come to New Yor once every four to six weeks to buy cocaine and indirect sales occurred when Moten came to Brown and asked him for one or two ounces of cocaine for Bubba and Brown would give him the cocaine and Moten would give Brown payment. This too would occur every four to six weeks. He also testified during the '60s he would give, not sell to Frank Moten a half and ounce quantities of cocaine on a weekly basis. Parker testified he learned about Womack's death in June of '72. Brown later Parker Womack and Moten had taken a trip to Spain and bought a condominium and Womack had given Moten about $200,000. Parker testified that Brown told him that Solo, Papers, the defendant John Morris and Moten were friends. He also said he once had a talk with Brown about Tommy Davis' relationship with Moten and Brown told him that one time Davis had worked for Moten.

T5 pm dws

Parker testified he met Brightman in December 1971 at 180 West End Avenue and Brightman accompanied Moten to see Brown. Brown told Parker that Moten and Brightman were neighbors and Breitman would do anything for Moten. Parker testified that on that occasion Rodriguez and Tony Alvarez were summoned to the Orangeburg house after some cocaine Brown had gotten from them turned color and Moten was present along with Brown, Lois Sampson and perhaps Joseph Sampson.

Parker testified on an occasion in '74 when he went to Florida to visit Brown, remained a day and a half and returned to Washington. When he arrived back Brown called him and asked him to go to Coney Island apartment to get his suitcase with clothes from Gwenn and that Moten would also meet him there and give him money for Brown.

Parker went to New York on a shuttle. Moten met him at the apartment house and gave him a thousand dollars, and an ounce of cocaine. Parker then flew to Miami. According to testimony a month later he asked for and received $500 from Moten to fly to Miami when he saw Moten at the Madison Square Garden at the Ali-Frazier fight.

Marsha Ladd testified that she met Moten in the '50s. She saw him rarely and then in 1964. She said she

dws

saw him frequently after her husband died in 1970 when she began living with Solo. Ladd testified she had talks with Solo about Moten. Solo told her that Moten had become very rich and that all his businesses were fronts for his fencing of stolen jewelry and other illegal activity. He also said that Moten was backing him in the drug business, and that Moten would advance Solo the money to purchase the drugs.

Ladd testified that Solo told her he owed Moten a lot of money and he would be seriously hurt if he, Solo, didn't repay his debt. At Solo's request she helped him repay Moten. She testified she would see money at her apartment after Moten was there and he had left which was not there before he came. She saw Solo get money from Moten at Moten's apartment at Park West Village. Solo would call Moten and tell him "My shirts are ready. I need money to pay for them."

Ladd and Solo would go to Moten's apartment and he, Solo, would get an envelope from Moten and put it in the bag.

Ladd testified to an occasion on which when they got downstairs Solo asked her to count the money and it came to $25,000. She and Solo drove to Lenox Avenue in the 120s. He went into a bar. Solo came back with

Woney and gave him the money and Woney told Solo the drugs would be ready the next day.

Ladd also testified that she went with Solo to Moten's Laundromat to get money and one occasion to his house in Englewood. On that occasion she and Solo and Papers who she testified were partners in the drug busines went to Moten's house and down to the basement where they snorted cocaine. Solo and Papers then went to Moten's basement office for about 30 minutes. They left and Solo told Ladd that he and Papers were going to pick up the drugs and they dropped Mrs. Ladd off.

She testified she picked up money from Moten at his Laundromat with Papers in May of 1971. One time there were three packages of $100 bills, $10,000 per packag a total of $30,000. She testified she had a talk with Moten about a trip to Europe, France and Spain, and she also had a talk with Womack about money. That either Moten owed Womack money or Womack owed Moten money. She testified that Moten talked about Solo, that Moten owed Solo or vice versa.

She testified that she met Brightman at Frank's Laundromat.

Hanna Forrest, the teller at the Chase Bank, testified she changed bills for Moten small denominations into large. An average amount was 5000. The most was 30,000. In the grand jury she had said was the most was 50,000 and the least was 2000. This is per week as I recall.

Also in evidence are telephone tolls and the charts and the charts reflecting telephone calls between Moten telephone numbers and telephone numbers related to other people involved in this case.

Ladd testified that she saw Moten in Papers' apartment many times and that she went to Jack Brown's apartment till 1972 where she often saw Moten. She saw Moten give Brown money or vice versa every time they were together.

On Memorial or Decoration Day of 1971 she said she attended a cook-out at Moten's house. Solon Glaze, Jan Brown, Jack Brown and Brightman were there.

The Government calls attention to the checks drawn by Marion Ladd to Frank Moten for your attention. She also testified she was arrested on a complaint filed by Moten charging her with extortion and threatening him by letter. She testified that between May and November of 1971 she gave Moten $40 to 460,000. for Solo, $28,000 in checks. She always paid by check or gave Moten cash directly. He came to her apartment and she gave him money

almost every week. She testified that Jan had told her
that Solo didn't owe Moten money. Moten just cashed the
checks and returned most of the money to Solo. She testified that Solo purchased drugs other than from Jack Brown
for street sale. She purchased drugs from Jack Brown
2 for her use, Solo's use and the Pitt sisters' use and that
Moten financed the purchase. She testified that after
she broke up with Solo she tried to get the money from
Moten.

Hannah Forrest the note teller testified she met Moten in 1969 at the Chase Bank where he was a customer. A few months later she met him socially. Moten had an apartment at 97th Street and Central Park West. That she Moren in possession of cocaine at his apartment, her apartment and Jack Brown's apartment in Brooklyn. She said that Moten told her he got his cocaine from Brown. She first met Brown at Moten's apartment on 97th Street in either 1970 or '71. She saw Moten in Coney Island about three times and she also met Willie Womack.

Now Moten on the other hand points to the incredibility and urges the incredibility and the unbelievability of Brown's testimony against him by pointing out on the direct examination Brown testified that he gave Moten 60 to $80,000 per month to use as he saw fit free

dws

of any interest charge, and he continued this practice until April 1973 when he became a fugitive. On cross-examination, however, Moten points out Brown testified that he gave Moten 60 to $70,000 every three months and then only from '69 until February 1972.

Further Brown testified that he gave the money to Moten because banks are closed on Sunday; yet Brown kept his money for food, rent and bail in a safety-deposit box, and his agreement with Moten provided for three days' notice to get his money.

Moten also points out that Brown testified that Moten never earned any money for changing his money and that Moten earned no money from arranging a cocaine connection for Brown on two occasions in 1972; and that Moten earned no money from Brown's transactions with Bubba Davis, and that Moten earned no money from Brown's transactions with Bernard Brightman.

Moten contends that there is a great deal of evidence of Jack Brown's precarious psychological state, commending to your attention the shooting incident in Fort Lee as well as Brown's constant possession and use of guns.

Brown also testified Moten tried to alienate the affection of his son, Kenny, and that his wife, Jan, was very bitter at Moten because of the death of their son, Todd, although Brown himself testified that he was not. Moten also contends that the other witnesses against him, Michael Parker, Marion Ladd and Lina Gotes are generally unreliable and wholly unworthy of belief.

William Davis, Bubba Davis, testified here he was a liquor store owner in Boston and denied ever dealing in cocaine with anybody contradicting Jack Brown's testimony He testified that he knew Frank Moten and Jack Brown slightly, and got him a lawyer after his son's death.

All right. I'll take a 30-second break at this point.

(Pause.)

THE COURT: Ladies and gentlemen, Mrs. Rosner and Mr. Beller have called to my attention an erroneous attribution in the Moten summary. That I had attributed certain conversations to the testimony of Mrs. Ladd. They have been improper attributed to her. They should have been attributed to Hannah Forrest, and I now give you that so that you can hear what it is and obviously make the proper attribution.

It was Hannah Forrest who testified that she had had a talk with Moten about a trip to Europe, France and Spain. And also she had a talk with Womack about money. That either Womack owed Moten money or Moten owed

dws

Womack money. This is Hanna Forrest.

MRS. ROSNER: Had a talk with Moten, Judge. You just misspoke.

THE COURT: With Moten. I'm sorry.

She testified that Moten had talked about Solo and that Moten owed Solo money or Solo owed Moten money. This is Hanna Forrest talking. She testified that she had met Bernie Brightman at Frank's Laundromat. Now Hanna Forrest I had said had been to Coney Island with Moten about three times. Apparently the record is that she had been to Coney Island and seen Brown there on three occasions, one of which occasion only she went there with Mr. Moten.

Now Count 11 charges possession with intent to distribute in this District by defendants Moten and Brightman of approximately a half a kilogram of cocaine April of 1973. As to this count the Government contends the proof shows a week or two after Brown became a fugitive, but before he moved to Coney Island Moten and Brightman came to his apartment at 96th Street. Brightman wanted one kilogram of cocaine but Brown gave him a half a kilogram saying to Moten that Moten would have to stand for that half a kilogram that Brown was giving to him.

Moten agreed and Moten on that occasion gave him $10,000 for the earlier half kilogram that Brown had delivered to Brightman in January. In this connection and at this time I think it appropriate to call to your attention that Mr. Brightman's counsel calls to your attention the passport of Brightman which he asserts shows that he was in Europe at that time so the transaction could not have occurred.

The Government has disputed this in its rebuttal argument to you yesterday urging upon you its view of the meaning of the passport.

Now coming to the facts, summarizing the facts as to Mr. Brightman. He is charged in Count 1 as well as in Count 10 and 11. It is Brown's testimony that he first met Brightman when Moten moved to New Jersey in the latter part of '65 or '66, and until 1969 he only saw him occasionally when he went to visit Moten. That Brightman started purchasing drugs from Brown in 1972. Moten told Brown Bernie Brightman was doing badly and wanted to start doing something and that he, Moten was against this.

Brown eventually said he was ready to give Moten some stuff and Moten said he would be responsible if Brightman did not pay. Brown gave Brightman an eighth of a kilogram of cocaine less an amount that Moten took out of the package. Brown further testified that in

1972 he moved to Orangeburg and there came a time when the contract of the house was put in Brightman's name. Brown had told Moten he was buying a house for $71,000 and putting it in his name, in Brown's name, and Moten said it was a mistake since Brown could not show any visible means to earn such money. He was inviting trouble with the Internal Revenue Service.

Moten suggested Brightman would be an idea person to stand in for Jack since he had a couple of legitimate businesses. Brightman wanted something in return, half a kilogram of cocaine. Moten said, "Give him five or $6000."

Brightman said it was not enough, according to Brown, he wanted 10,000. The amount was agreed to.

Parker testified that Brown told him Brightman was helping Brown get the Orangeburg house by putting it in his name, using Brown's money for tax purposes. He further testified that in the beginning of the summer of '72 he rode downtown on one occasion with Brown in Jack's Mercedes, and Brown told Parker he was going to meet Bernie in lower Manhattan at a bank to give him $20,000 for the house. That they went to the 20s and 30s and when they got there Brown parked the car and went around the corner to the bank. He was gone for maybe an hour,

hour and a half.

The Government contends that according to Brown's testimony in February, March of '74 Brown saw Moten and Brightman in Florida. That Moten told Brown that Brightman wanted to buy cocaine since Brightman now had good customers and wanted to keep them and that Brown accompanied by Moten went to Brightman's mother's place with two kilos.

Moten said he would stand up for Brightman. In this regard the Government urges your attention to be called to an airline ticket charged to Diners Club on February 26,1 974 for a plane ticket from New York to Miami and an Amtrak tricket from Miami to New York in Brightman's name for March 3, 1974.

Brightman testified to being there at that time, but to look into the possible business opportunity, had nothing to do with narcotics at all.

Marsha Ladd testified that she met Brightman at Moten's cook-out on Memorial Day or Decoration Day. Parker testified that he had met Brightman at 180 West End Avenue in December of '71 when he came with Moten to see Brown. Brown told him that Brightman and Moten were neighbors and that Brightman wculd do anything for Moten.

The Government also calls to your attention the

dws

documentary evidence showing telephone calls between Brown's phone numbers and Brightman's numbers and Moten's telephone numbers and Brightman's numbers for proof of the relationship between them.

Now the defendant Brightman on his behalf points out to you that in his testimony before you he categorically denied all the allegations of drug transactions made by Brown and Parker. He also points to what he contends are inconsistencies in Jack Brown's testimony. That Brown first testified on the stand he started selling cocaine to Brightman in the middle of 1969 and sold a half kilogram of cocaine that year to Brightman. He points out that the next day when Jack Brown returned to the stand he testified that he did not sell any significant quantity of cocaine to Mr. Brightman until 1972 which is urged upon you as a three-year discrepancy.

Brown also testified that he delivered a quantity of cocaine to Brightman in April 1973 at the Orangeburg house. Brightman however testified he was out of the country in April of 1973 and therefore Brown could not possibly have delivered any cocaine to him. As corroboration Mr. Brightman urges that the passport shows corroboration of this fact.

Parker testified that Brown told him that he had delivered a quantity of cocaine to Bernie Brightman in the middle of December of 1972 and that he saw Brightman at the Orangeburg house at that time. Brightman points out that he has testified, his son Adam and his nephew Steve Milner from Florida have testified that Brightman's wife and his son Adam were in Florida virtually the entire month of December so that this alleged delivery as Parker has testified to could not have occurred.

Brightman also points out that Brown testified he recalls selling cocaine to Brightman at Frank Moten's house in the spring of 1970. However there is testimony from Brightman, his son Adam as well as Mr. Leon Appel, that Brightman broke his leg badly on February 1970 and was immobile for several months thereafter and he contends could not have been in Moten's house receiving narcotics.

Brown testified that he saw Brightman on the average of twice a week from the time he moved to Orangeburg which was in November of '72 until April of 1973. Brightman contends however that since he and his family were in Florida the month of December he could not have been in Orangeburg at least that month and further that he was in Europe of April of '73 on any other occasions during the year involved in this indictment.

Brightman also claims that the chart of the telephone calls to and from the Orangeburg house numbered about 50 calls between January and March of 1973. There were no calls at all in December when Brightman stated he was in Florida. There were no calls in April when Brightman stated he was in Europe. Brightman contends also that these calls related to the Orangeburg house and its certificate of occupancy. This house which he says he owned.

Brightman again reiterates to you that he has denied ever having dealt with narcotics with Jack Brown, Michael Parker, Patricia Dyson, Trees who he knew as Mr. Felix, or anyone else.

Count 12 charges Sebastian Intersimone known to some as Mr. B or Benny with distributing and possessing with intent to distribute approximately four kilograms of heroin in the fall of 19&1. As to this count the Government contends that the proof shows that in the fall of the year before Brown's son Todd's death, which was in January of '72, Intersimone who had moved to Accord, New York in the Catskills in 1970 came to Brown's apartment in New York City and gave him four kilograms of good quality heroin at a price of $20,000 a kilogram.

The Government contends that proof shows tha Brown paid off Intersimone in installments on various occasions when Brown drove up the Thruway to various locations. That the $20,000 of this money was laundered by Mr. Fiumara in Boston in April of '72.

I charge you that under the applicable statute of limitations the possession and distribution of this heroin by Mr. Intersimone if you find it in fact occurred had to occur subsequent to April 5 of 1971 -- that's a five-year statute of limitations -- in order to be the basis of any conviction of the defendant. If you believe Brown, that a heroin transaction in fact occurred between him and Intersimone in the fall of either 1970 or 1971, but have a reasonable doubt as to whether it occurred in the fall of 1970 or in the fall of 1971 I charge you that you must acquit defendant Intersimone on Count 12 of this indictment.

Now marshaling the evidencd as to Mr. Intersimon he's charged in Count 1 and substantive Count 12. Brown testified he first met him in 1959 when Brown was in partnership with a man called Mojo. He testified he met Intersimone through Jimmy Richardson. He testified to two heroin sales which he says occurred in 1959. His first sale he says he paid Intersimone in small bills and was told that the next time he should give him big bills, fifties and ond-hundreds.

He testified that sale occurred some two to three weeks later and Brown purchased two kilograms of heroin from Intersimone. During this time he said he met with Intersimone socially.

When Brown was released from the Atlanta penitentiary in 1964 the Government contends that he again met Mr. Intersimone in the latter part of 1964 of '65. Brown started purchasing heroin from him again. Brown testified about one such transaction when he claims he overslept and Intersimone called Jan to wake him up and he purchased one kilo of heroin at that time. Brown testified that he continued to see him, Intersimone, after 1965 about once a week at his apartment or at various bars, but that he had other sources for his heroin.

Brown says he discussed these sources with Mr. Intersimone. In 1969 he says he met Intersimone near Beth Israel Hospital, got a package from him which was supposed to be heroin, but which was actually Epsom salt.

Brown claims that Intersimone told him he would make it up. In 1970 Intersimone moved to Accord, New York in the Catskills.

The Government contends the proof shows he continued to keep an apartment in New York City. The Government contends that the next sale to Brown by

dws

Intersimone was the four kilograms of heroin sale charged in Count 12, which the Government contends occurred in the fall of 1971.

The Government contends and you will recall that revolved around the testimony as to whether it was 1970 or 1971 whether Mr. Brown is to be credited, is reliable or is to be otherwise believed by you in that regard.

In 1971 the Government contends that Intersimone met Moten in Brown's presence and in March or April Moten helped to launder $20,000 of the money that Brown says he paid Intersimone for the four kilos with Mr. Fiumara.

Mr. Intersimone became the godfather of Brown's son, Jason, who was born in 1972. He says that he never saw Intersimone after the July 4 holiday in 1972 at which time he loaned Intersimone $5000 which Brown believes was not repaid.

The Government contends that in early 1975 according to the testimony of Jack Brown there was a telephone conversation between Brown and Intersimone at which time Intersimone told him, "If I had gotten in touch with you earlier I would have had good news for you. I ha something decent for you."

Now Mr. Intersimone urges upon you that he was not involved in narcotics transactions as Brown testified. It is his position that Brown falsely testified against him for reasons of his own such as to obtain his own freedom from prosecution by providing other targets for the Government to prosecute or to revenge himself upon persons who Brown believed had wronged him in some manner.

5 Mr. Intersimone also contends that if you believe Brown that there was a heroin transaction involving him there is at least a reasonable doubt whether the transaction took place in the fall of 1970 or int he fall of 1971 and points to Brown's statement on cross-examination that he could not remember the year.

Mr. Intersimone also claims that if you find that he had been a member of the conspiracy you could find that he withdrew prior to April 5, 1971 and points to his inactivity. Mr. Intersimone contends that the telephone call in March of 1975 which Jack Brown testified to and which is charged as Overt Act 47, if it took place at all was not narcotics related.

Now the Government has offered in evidence certain statements of Brown concerning the defendant Intersimone made to law enforcement officials prior to this trial, particularly his statement to the Drug

Enforcement Administration dated September 14, 1975. If you find that this statement was made by Brown prior to the time any suggested motive to testify falsely against Mr. Intersimone arose then you may consider that statement on the issue of whether Brown testified truthfully or falsely against Intersimone at this trial. If on the other hand you are not convinced that the September 14, 1975 statement to law enforcement officials was made prior to the time the suggested motive to testify falsely against Intersimone arose then you are to disregard that prior statement entirely in assessing Brown's credibility.

In short, the statements made by Brown to law enforcement officials prior to this trial which are consistent with trial testimony are not to be considered by you in assessing credibility unless you first find that those statements were made at the time when Brown had no motive to lie about Intersimone.

Count 13 charges Yvonne Schennault and Donald O'Dood together with Al Williams, Capra, Guarino and Dellacava, who are not before you, with distributing and possessing with intent to distribute approximately three kilograms of heroin in a transaction in this District that occurred in December of 1971.

The Government contends that proof in that regard is that defendant Schennault and O'Dood and Al Williams came to New York from Chicago and Schennault rented a Hertz car and made arrangements with Brown to get heroin from his source which was in fact the Capra, Guarino, Dellacava group. That the source was to take the key from under the driver's seat in a rented car and put the heroin in the trunk, take the money that had been left there and put the key back under the mat in the front seat.

On this occasion the courier for the Dellacava group it is contended took the key away with him causing Mrs. Schennault to believe she had been ripped off and it was not until she got a substitute key from Hertz she discovered the had been delivered as per the agreement. The price paid for the heroin ws $27,000 per kilogram.

Count 14 charges Yvonne Schennault with having possessed with intent to distribute in April 1973 approximately one-half kilogram of cocaine.

The Government contends that Michael Parker had come to New York to go to court with Brown in April of '73. Brown was cutting or mixing a package of a half kilogram of cocaine in Carol Cuffee's back bedroom. He told Parker that Schennault was coming to get it. Schennault arrived and she and Al from Chicago remained for the night and on the next morning she left with her shoulder bag as

dws

did Al, and Brown told Parker that Schennault had taken the half kilogram with him.

Now as to Mrs. Schennault marshaling the evidence, she is charged in Count 1, the conspiracy count as well as substantive Counts 13 and 14. It is the testimony of Brown that he met her in '70 or '71. That he is the wife of Harry Schennault whom Brown first met while serving time in the penitentiary with him.

The Government urges upon you Brown's testimony to the effect that in the summer of '73 Brown received two suitcases containing 17 or 18 kilograms of cocaine from the Tony Alvarez-Rodriguez connection delivered by Sureda who came up from Florida by train. That Brown called Schennault in Chicago and said that he'd like to see her and she came to Chicago where he was staying and he gave her 10 or 12 kilograms of cocaine from that shipment.

(Continued on next page.)

T6

Brown's testimony is that he is living in Florida during the third week in February, '74, he took delivery of 15 or 16 kilograms of cocaine from Rodriguez, he got the shipment of March, '74, he called Mrs. Schennault in Chicago and told her it was urgent to come to Florida. She said she would come and stay in the Holiday Inn under the name of Chapman and she told him she used the name Chapman because the cousin had credit cards in that name and the cousin was clean. The same subsequently took place in Brown's apartment and Schennault paid in large bills. Brown testified further in April of '74 she came to Miami to pay him for previously purchased drugs; that in May of '74 he received another delivery of cocaine from Tony Alvarez and Rodriguez, wrapped in a plastic garbage bag. Thereafter he talked to Mrs. Schennault, she subsequently came to Florida and told Brown she was in the Marriott Hotel under the name of Chapman, he was living in Opa-Locka, the outskirts of Miami and he gave her 10 to 12 kilograms of cocaine and received some money.

July of '74 he said he saw her again in Miami, she brought in money in that occasion and he went to see her at the Marriott. September or October, '74 Brown testified he received another shipment of cocaine from Rodriguez and Tony Alvarez, 20 kilograms in a duffle bag, picked up for Brown by one Penny Perez.

Thereafter, Parker came down to visit him and Yvonne Schennault came at almost the same time, Parker had left the suitcase at Masserat's store and asked Mrs. Schennault to go to the store and pick up the suitcase. She did so and came back with it. The suitcase contained $10,000 and some other items.

At that time Brown told her he received a new shipment, was going to give her the majority. He gave her fifteen or seventeen kilograms and in turn got $60,000 or $70,000.

He testified in the fall of '74 he got scared and decided to leave Florida, flushed 3 kilograms of cocaine down the toilet in Disneyworld, eventually got to Washington Thanksgiving, called Mrs. Schennault who came to visit him at Michael Parker's and brought him one half kilo gram of cocaine at Brown's request. Parker testified while Brown was living with him in Washington during the period November, '74, to January, '75, Mrs. Schennault brought Brown 1 ounce of cocaine. The governme calls attention to the documentary evidence in this case including various hotel documents and car rentals during 1974 in the names of Yvonne Schennault and Chapman.

Now, Mrs. Schennault submits that the evidence shows that the existence of a close personal and indeed romantic relationship developed between herself and Jack Brown, after Mrs. Schennault's husband was incarcerated. Mrs. Schennault contends the fact that Jack Brown asked her when she came to one of Brown's apartments in 1973, to take his three-year old daughter Winona to Coney Island for the day which Mrs. Schennault states evidences indicia of such a close relationship. Other than the existence of the relationship was that Mr. Schennault provided clothing to Brown and she, at the request of Brown, traveled to Florida to assist him after he had shot and wounded himself. Mrs. Schennault submits the evidence presented to you has established a relationship between Brown and her based upon emotions and not upon narcotics.

Now, the testimony in the record concerning Donald O'Dood, I shall marshal for you now. Donald O'Dood is charged in Count 1 and in substantive Count 13. Count 13 you will recall is the 3 kilograms of heroin in December, 1971, involving the heroin in the trunk of the car with the Guarino-Capra-Dellacava group. The government contends the evidence shows Donald O'Dood was present throughout the incident that comprised that transaction, he arrived in the company of Mrs. Schennault and left with her. Brown testified concerning another incident when he met

d2

O'Dood again in the company of Big Al from Chicago and Harry Schennault. There was testimony at the end of 1968 Connie Garrett came to Brown and told Brown that she had a friend from Chicago and that as a result of this conversation Brown met Schennault. This meeting occurred two or three days later at her apartment and Connie introduced Schennault, Big Al and O'Dood to Brown. Harry and Brown went into the bedroom and discussed heroin, they were alone at that time. Brown agreed to get the heroin from Juan Alphonse which he did, and upon receiving it, he and Harry again went into one bedroom and Al and O'Dood went into another. In the bedroom Harry commented he liked the weight of the heroin and paid for it. IRS Agent Philip DiPasquale testified that he observed Donald O'Dood in Yvonne Schennault's house on two occasions in 1972, and that he interviewed O'Dood in 1972 at which time he said he was not employed in 1971, and that he lived on savings bonds which he had purchased.

Defendant O'Dood contends, however, that even if you credit Brown's testimony there were three persons present at the time of the Schennault drug transactions, that is, Schennault, Williams and O'Dood; there was no testimony that O'Dood arrived with Williams and Schennault and also points out that Brown testified that the actual drug transaction took place in the bedroom where only Brown, Alphone and Schennault were present and O'Dood and Williams were in another room. As to the alleged Yvonne Schennault purchase in November, '71, charged in substantive Count 13 against O'Dood he contends there is no testimony, he arrived at Mrs. Schennault or he was in the 56th Street apartment where Mr. Schennault, Al and Brown allegedly waited for the three kilos to be put in Yvonne Schennault's rented car.

Ladies and gentlemen, we will stand in recess for another ten minues. I will excuse you.

(Jury left)

THE COURT: Counsel, it would appear those of you who have cars better get going.

MRS. SOLLEDER: Is your Honor going to finish tonight?

THE COURT: What assistance can counsel give me in our direction here? I have perhaps an hour, an hour and a half more to go.

MR. BELLER: Let's finish.

THE COURT: That's my thought. I feel I should keep going, dismiss the alternates and send the balance to the hotel and let them begin deliberations in the morning.

MR. BELLER: I would hold the alternates until

hph6

they start to deliberate and have them come at 10 o'clock tomorrow.

THE COURT: I am going to send the jury to the hotel. I am going to conclude my charge in the morning. It is crystal clear that I cannot conclude the charge before some time a little short of 7 o'clock, and by the time 22 of you ladies and gentlemen get through with requests and exceptions, and give those to the jury, it will be impermissibly late. I am sure that everybody is tired of listening to this charge at this point and I am tired of giving it, and so we will come fresh to this in the morning. We are going to be in recess until 10 o'clock in the morning and I am sending the jury to the hotel under sequestration. Although it is Saturday, please be prompt.

(Adjourned to November 6, 1976, at 10 A.M.)

UNITED STATES OF AMERICA

vs.

76 Cr. 324

JUAN ANTONIO ALVAREZ, et al.

New York, November 6, 1976;
10.00 o'clock a.m.

(Trial resumed.)

- -

(In open court. Jury not present.)

THE COURT: We have a little time here. One of the juror's sister was in a very bad automobile accident last night. His wife couldn't get in touch with him. I am having his wife speak to him on the phone and we have a minute or two here.

MR. BELLER: I have a brief application, your Honor. Yesterday, your Honor, in marshaling the evidence of Mr. Brightman, you read into the record a submission that I actually find in the submission made to the Court by Mr. Brightman's attorney, and I think the Court said:

> "Brightman testified that he was out of the country in April of 1973. Therefore, Brown could not possibly have delivered any cocaine for him."

There is no transcript cite in the submission made by Mr. Anolik and that's certainly understandabl because the transcript shows that even Mr. Brightman testified that he was back by the end of April and I would hand that up. It's page 6829 and 6830 of the record.

MR. ANOLIK: The end of April, I submit, means he was out of the country, your Honor. I would like your Honor, then, if Mr. Beller is asking for that, that you also read something that you left out yesterday which we consider very important, namely, that Mr. Parker, and we do have a record cite here, that Mr. Parker stated that when Brightman came to Orangeburg in January, it was strictly for a social visit which is inconsistent, of course, with what Brown said, and we think in fairness we should put that in.

THE COURT: Let me cover a number of things at this point.

In marshaling to the jury I stated to them I was not being exhaustive, I am not being exhaustive. I am not going to permit this marshaling to become the battleground for all the lawyers to have me replace again to this jury each little answer. I can't do that. If counsel feels I have made a misstatement, I am perfectly prepared to clear up the misstatement. I have already done that where Mrs. Rosner pointed that out to me yesterday, but

I am not going to add something because somebody feels that something else should be heard.

MR. ANOLIK: I don't see any misstatement. The end of April to me is not April.

THE COURT: The end of April to me does not mean he was out during April. Certainly arguably, it doesn't mean that. I said he was out of this country during April. This testimony does not support that to the fullest extent.

MR. ANOLIK: Your Honor, I believe he would gave testified he was out. I haven't got the record.

THE COURT: In this regard, Mr. Anolik, I feel I have made a modest mistake and I am going to correct it. I am not going to add that if somebody feels I should say something else --

MR. ANOLIK: I will object to that, your Honor. If you are not going to balance this, that is. Mr. Beller spent over an hour in rebuttal of my client, which is in disproportion, disproportionate to any person in this courtroom.

THE COURT: You urged that on me yesterday. You put on six or seven or eight witnesses whereas others put on no witnesses.

MR. ANOLIK: Your Honor, he had a chance to sum up. Rebuttal doesn't mean he gets more time than his original summation and deliberately in my opinion withholding things he could have put on summation not giving me an opportunity answer.

THE COURT: Mr. Anolik, with all the good will in the world, I am obliged to deny whatever application is imbedded what you are saying to me.

MR. BELLER: Your Honor, my application simply was:

Ladies and gentlemen of the jury, yesterday in reviewing the evidence with respect to Mr. Brightman, I said that Mr. Brightman had testified that he was out of the country in April of 1973. I just want to read to you what the record says in that regard.

THE COURT: Is that written there?

MR. BELLER: Yes.

(Handed to the Court.)

THE COURT: You have handed me certain Government contentions of one kind or another.

MR. BELLER: Correct, and I have given to defe counsel whom I have seen, and I will hand out the balance.

THE COURT: Mr. Beller, to make it short, I have concluded in thinking it over last night and thinkin it over this morning again, and this is consistent with what I said, I am not going to make this charge a batteground for the contentions of the parties.

I will make a statement somewhere along towards the end that I have given some contentions, I may not have given others, they are to review the entire case. The Government contends it has proved the case beyond a reasonable doubt, the defendants contend that is not so for various reasons. The Government has argued to you at length that the defendants' contentions of convictions here are without merit, and you must go over in your mind what you heard in this regard and consider all those contentions, but I am not going to let the two sides here start using my charge as a battleground.

MR. BELLER: Just for the record let me state, your Honor, that I believe that the procedure that has been followed is not quite fair to the Government in that what is going is, the Court is stating various pieces of testimony from the record with respect to various matters, and then in the end, in doing that defense contentions -- for instance, the Court generally doesn't say the Government contends these pieces of evidence relate to a particular incident and it fits because, for example, it was cold, and he testifed such-and-such. The Court is giving the facts and then coming back on

hps

defense side and saying the defense contends the witnesses are liars because they're tryung to get their freedom.

THE COURT: I don't want to argue with you, but I do believe, in reviewing the essence of the particular count and stating what the Government states the proof is with regard to that count, I am giving the Government's side of it.

3 In connection with each of these, I then give a detailed statement, not exhaustive, but in some detail as to what the proof is with regard to that particular defendant who is a participant in the immediately preceding counts.

MR. BELLER: The last thing is as to Count 6, January 173 shipment, I believe the Court incorrectly stated the Government's position with respect to that count yesterday.

THE COURT: If I did, I will correct it. I am receptive to all corrections.

MR. BELLER: We did submit a statement of the Government's contentions with respect to Count 6. I ask the Court to give that.

MR. HERWITZ: May I be heard, your Honor?

THE COURT: Mr. Herwitz, on what issue?

MR. HERWITZ: I may be off base on the basis on the basis of what your Honor has stated, but at the risk of criticism, Mr. Beller gave me this morning a counterproposal or a request, Government's response to contentions of Sidney Foster.

THE COURT: I'm not going to give it.

MR. OFFER: I was likewise given this morning --

THE COURT: I am not going give it.

MR. OFFER: What he found is a question of fact for the jury to determine.

THE COURT: Whatever he gave you this morning, I am not going to give it except as insofar it amounts to a correction of something I said.

MR. BELLER: Your Honor, Mr. Mitchell has made a submission, I went through all the submissions last night. I don't know what the Court is giving or not giving, but in one of the submissions he says Mr. Jones was incarcerated for the case on which he was arrested. I don't believe there is any evidence in the record of that.

MR. MITCHELL: Yes.

THE COURT: Where is it?

MR. BELLER: There is no record citation.

MR. MITCHELL: It's in the record. We stipulated he went to jail.

MR. BELLER: Yes, we stipulated.

hps

MR. MITCHELL: For that crime.

What did he go to jail for?

MR. BELLER: I'm saying Mr. Mitchell has made a submission in which he said Albert Lee Jones was arrested and he wen to jail for that crime and there is no evidence in the record that he went to jail for that crime.

MR. MITCHELL: If you get the stipulation, I said he simply went to jail and he was in jail from April 26, 1972 --

MR. BELLER: I'm not arguing I stipulated he was in jail. There is no evidence in the record for what he was in jail.

MR. MITCHELL: You objected when I tried to introduce the record, but you stipulated to it.

MR. BELLER: There is no record citation for the point Mr. Mitchell is making and no evidence in the record of it.

THE COURT: My reference, Mr. Beller, does not contain a stipulation, any marshaling that it was by reaso of that arrest.

MR. MITCHELL: That's right.

MR. LEFF: Judge, I am not asking for a correction. You spoke about Eduardo and Lazar Yaujar, you called them defendants. I would just ask you if yo do marshaling again as to Nelson, they are mentioned; they are not called defendants.

THE COURT: I left them out when I stated the indictment.

MR. LEFF: When you cite the indictment, that's when you mentioned them, you called them defendants, when you read other defendants and --

MR. COHN: You called them co-conspirators. I have that note in my objection as an exception. It wasn't during the marshaling, I don't think.

MRS. ROSNER: It was during your charge.

THE COURT: If you call that to my attention, I will correct that. Call that to my attention later, Mr. Cohn.

MR. BELLER: Your Honor, I didn't understand your Honor skipping them. You were reading the indictment.

THE COURT: They are no longer defendants in this case. The Government contends, in fact, they had no evidence to indict them and it was inappropriate to indict them.

MR. BELLER: They were defendants in the indictment and the case was dismissed against them.

THE COURT: They are not defendants at this time.

MRS. ROSNER: We have another problem which I wasn't going to raise now, but may want to do it now, Judge. I discussed it with Mr. Beller this morning. In marshaling the Government's contentions under Section 848 as to Moten, you put in two matters that I don't think are supported by the evidence. You mentioned that in considering the derivation of substantial resources they might consider that he had a home of a worth of $100,000. That not submissible under that count because the Government never proved he acquired it after May 1st, 1971, which they must do under the law, and secondly, your Honor, you mentioned the New Jersey case fixing incident as one of the series of narcotics violations that could be attributable to Mr. Moten and that happened in 1969. That's not permissible under the count either, Judge.

Leaving aside whether that was an act in furtherance of a narcotics violation , it's 1969.

MR. BELLER: Your Honor, our position is as to the house, Mrs. Rosner is correct. As to the 1969 case, the jury can consider that as background on the 848 count and as evidence with respect to the conspiracy count. In other words, to establish his role as an organizer and

hps

supervisor he doesn't have to have begun on Mqy 1st, 1971.

THE COURT: You are saying you consent the jury may not consider the house as --

MR. BELLER: Yes.

THE COURT: All right.

MRS. ROSNER: Judge, it's a very serious count. I think the way you read it to the jury, I don't have the charge in front of me, I think what you said was, that among the continuing series of violations they could consider that incident.

THE COURT: Which incident?

MRS. ROSNER: The 1969 incident. Without regard to Mr. Beller's argument let's assume it's correct that they could take that incident as evidence of a relationship which continued past 1971, assume that to be correct, I think the way you charged the jury, you said the 1969 was one of the series. The series has to occur clearly after 1971. If that's in there, Judge, it is clearly wrong and serious enough. I thought I should bring it to your attention, your Honor.

MR. KRIEGER: A housekeeping matter, if your Honor please.

If your Honor please, I know that your Honor has indicated that it is the wish of the Court that the jury, when it does begin to deliberate, deliberates only for roughly 10 to 5.30, to wit, they do not deliberate at night. Would your Honor entertain an application to reconsider that, that they can deliberate in the evening?

MR. BELLER: I would join in that, your Honor. I would leave it up to the jury that they should deliberate when they want to deliberate and if the jury wishes to deliberate at night, my experience with sequestered jury there is not too happy to go to a hotel, sitting with 16 or 12 people and a couple of marshals, watching television. There is not very much they can do in a hotel and if they want to deliberate, I would leave that up to the jury. If they are strong enough to go into the evening and they are at a certain point, and they want to continue, I would join Mr. Krieger's application and leave it to the jury.

MR. MITCHELL: If you submit it to the jury, your Honor, would you indicate some time before 3 o'clock so we can make arrangements.

MR. KRIEGER: My feeling is by the time you get them to dinner, unless they sit to 10 or 11, it's a waste of time.

(Recess.)

hps

(At the bench.)

THE COURT: Mr. Anolik has shown me page 6845 with regard to this question of whether Mr. Brightman was in or out of the country in the month of April.

Now, Mr. Beller.

MR. BELLER: Your Honor, the issue is, there was an alleged transaction at the end of April --

MR. ANOLIK: There was a --

MR. BELLER: I'm not finished.

MR. ANOLIK: Excuse me. Don't raise your voice, please.

THE COURT: Mr. Beller is --

MR. ANOLIK: I apologize. He shouldn't shout at me.

MR. BELLER: The issue here was whether Brightman could have been present in New York, for this transaction, this cocaine transaction that is alleged in the indictment as a substantive count at the end of April. Brightman testified. Mr. Anolik makes an argument to the jury that he couldn't have been in New York in April because look at his passport, it shows he was in Europe in April and he argues he wasn't in New York in April and that's critical, he says, because this is the tender thread by which his liberty hangs. Then we come back and say no, the passport

hps

says the opposite, he was back in New York April 18th. Then the Court charges the jury and I said in my summation Brightman himself testified he was back in New York at the end of April.

Then the Court charges the jury that Mr. Anolik says it's impossible for him to be here in April because of the passport and your Honor said you heard the Government's rebuttal argument and Mr. Brightman testified --

THE COURT: Mr. Brightman contended that.

5 MR. BELLER: Your Honor, I don't think I contended he testified --

THE COURT: In any event, the only open question is whether I read 6845 in addition to the two places that you want me --

MR. BELLER: All I'm asking for is a correction in the record where your Honor said he testified he was not in New York in April. That's not correct. He testified he returned to New York at the end of April and that's in the previous pages before and over here, April 1973. When he went to Orangeburg, whether at the end of April or beginning of May is irrelevant to the correction that I am asking your Honor to make. Your Honor said he --

THE COURT: I see what you are saying. I agree.

hps

This is a statement made by him regardless of his return as to when he says he went to Orangeburg.

MR. ANOLIK: Except for this, Judge:

"When I went up there it was the end of April, beginning of May, just as soon as I came back."

That's the critical word, your Honor.

THE COURT: And he says "and had taken care of --"

MR. ANOLIK: I just don't want any misimpression, your Honor.

MR. BELLER: The misimpression is he testified he was not here in April and that's not correct and it's important because I said in my summation that he didn't testify that. He said he was here at the end of April and I think it is important the jury not believe the Court is saying Mr. Beller was misleading you when he said he testified such-and-such.

MR. ANOLIK: He also testified he had never been to his home in Manhattan in his life.

MR. BELLER: I am only talking about a particular factual mistake.

THE COURT: I understand. I think Mr. Beller is correct. This does not bear upon that issue the way the other testimony does.

(In open court.)

MR. BELLER: Your Honor, could we know what the factual situation is with the juror.

THE COURT: Mr. Dorsa said he spoke with the uror's wife, by phone, who said the juror's sister had een in a bad automobile accident and was in the hospital ı intensive care. The juror was then put in touch th his wife by phone, however that is done, the marshal's pervisor, and he said all right, I'll talk to you tonight. viosly in the first instance being under the aura of s duties as a juror. But apparently upon reconsider- or of that, word was sent to me he wanted to go see his ter now. Now you know as much as we know, Mr. Beller.

MR. BELLER: Thank you, your Honor.

THE COURT: It seems to me under those circum- nces I have no choice but to replace him.

MRS.ROSNER: No objection.

MR. BELLER: You Honor, does the juror know s ging to be replaced if he leaves to see his sister and perhaps if he were told -- we don't know what situation is with the sister -- if he wants to go we no objection to his leaving and being replaced, but y decide if he is going to be replaced, that he would r listen to the balance of the charge and perhaps in

---

ld be up
or doesn't

s wife has told

e.
the wife told
she was in
have said --
n the first
ave said some-

Best Copy Available

hph

b6

If in fact it was serious but this morning there is no problem, she will be released from the hospital tonight, we don't know anything about it. If it's serious, fine, he'll be excused.

MR. KEEGAN: It's not fair to all of us after this length of time to have a juror concerned with this, on his mind.

MRS. ROSNER: May I be heard for one second.

THE COURT: Yes, you are the last one, please.

MRS. ROSNER: I think it is a matter in the discretion of the court. I think the circumstances certainly warrant the court, if you see fit in removing the juror. I don't think it should be left up to the juror for the following reasons: He may feel he has put in a tremendous amount of time here and wants to fulfill his obligation of a juror. Once we dispose of the alternates, the possibility exists the woman could take a turn for the worse or she could die --

THE COURT: That's a problem I felt would be existent here if something happens tomorrow.

MRS. ROSNER: It's an insane risk, your Honor.

THE COURT: We will take a recess.

MR. BELLER: I just ask your Honor we find out from him what his wife said to him about it.

(Recess)

(In open court, jury present.)

THE COURT: Good morning, ladies and gentlemen. Mr. Bosk, I understand there has been an accident to your sister.

JUROR NO. 10: Yes.

THE COURT: And you would like to be excused from service so you might go there.

JUROR NO. 10: Yes, your Honor.

THE COURT: I will grant that request obviously. We regret, we will excuse you from further service. I understand the marshal is to drive you there. I wish you all the best. I'm sure I speak on behalf of all of you, as to your appreciation for your services here all these months.

Thank you very much.

(Jury number 10 excused)

THE COURT: Ms. Davis, you have now succeeded to the post of regular juror number 10.

THE CLERK: The court will continue its charge. Will the marshals lock the courtroom door.

THE COURT: Now, ladies and gentlemen, when one endeavors to marshal evidence that was received before us over a period of close to three months, it is inevitable that certain errors may occur. That's why it is your recollection and not any lawyer's or mine that governs in this case, and that recollection, if you have any concerns as to it, may be refreshed by hearing the transcript, and it is nowhere more clearly than by the fact that counsel have pointed out to me two or three little matters that they feel I should correct, so no misapprehension is caused here. Even though it is your recollection, not mine, if I make a mistake, but if a mistake is called to my attention, I should then correct it before you.

Now, as to Count 6 of the indictment, when you look at the indictment, that is a charge that in or about January of 1973, Juan Antonio Alvarez and Angel Rodriguez and Jose Luis Sureda, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute approximately 18 kilograms of cocaine in this district.

Now, in my mind marshaling of the evidence, whatever I may have said, I now say to you as follows: It is the government's contention as to that count the evidence shows, according to Brown's testimony, that in 1973 he was at home in Orangeburg, New York, with defendant Brightman, snorting cocaine and Brightman wanted to buy cocaine and Brown said he was expecting a shipment shortly. At that time Rodriguez and Alvarez arrived at his home and

hph

Brightman being introduced, left. Rodriguez and Alvarez told Brown they had arrived with a shipment of cocaine and a day or two later, they delivered to Brown two suitcases with 15 kilograms of cocaine. Parker testified that in January, 1973, Brown telephoned Rodriguez and told him to come immediately to New York because something had gone wrong with his jewelry.

And, it is the government's contention that that is the evidence that is support of Count 6 of the indictment.

d7

Now, Count 11 charges in or about April, 1973, that defendants Moten and Brightman unlawfully, intentionally and knowingly did possess with intent to distribute approximately half a kilogram of cocaine, keeping in mind discharge is alleged to have occurred in or about April, 1973.

Now, yesterday in giving Mr. Brightman's contentions to you, I had made a statement it was his contention that Mr. Brightman was in Europe in April of 1973, with the obvious consequence which flows from that. I wish to read to you in this regard two questions and answers from the transcript, 6829, Mr. Brightman's cross-examination, and question which has nothing to do with anything:

"Q When was that?

hph

"A When I returned from Europe at the end of April.

"Anolik: What year, can you fix a year?

"Q '73, wasn't it, that's when you--

"A At the end of April, 1973, when I returned from Europe."

Now, in connection with Count 3, which is the one charging Mr. Moten with engaging in a continuing criminal enterprise and supervising,managing, organizing others and obtaining substantial income resources therefrom, I had called your attention to certain evidence which although in the record I charge you,you may not consider on this count. The first piece of evidence in that regard was the evidence where I said that Mr. Moten acted in one regard in fixing a criminal case for Brown in New Jersey. You may not consider that evidence in this regard although you may consider in regard to the conspiracy charge, but you may not consider it in this regard because that event occurred prior to May 1, 1971, wh is the effective date of the statute that is in question in this count. Therefore, I direct you not to consider that incident in this regard.

Also, Mr. Moten had gotten his home in Englewood, New Jersey, prior to that date, Mrs. Rosner advises me, and therefore you may not consider that the acquisition of

hph

that home on this count prior to the effective date of the statute in determining whether Mr. Moten obtained substantial income and resources from any activities, if you so find, because the house having been acquired before that date may not be considered in that regard. I so instruct you.

MRS. ROSNER: Thank you, your Honor.

MR. BELLER: Thank you, your Honor.

THE COURT: Now, to go forward, at the end of yesterday, at the end of yesterday we had Count 15. That charges Don Wilson with possessing with intent to distribute 10 kilograms of cocaine in November, 1972. The government contends that shortly after Brown moved to Orangeburg in November of '72, Brown called Wilson to give him his new telephone number as well as directions to the house by car; that Wilson parked his car in the garage and walked with Brown into Brown's den area off his bedroom. Brown sold, according to his testimony, Don Wilson 8 to 10 kilograms of cocaine on that occasion in the den.

Now, marshaling the evidence as to Mr. Wilson, defendant Wilson is charged in Count 1 as well as in Count 15, which I have just spoken to you about, the government urges --

MR. KRIEGER: May I respectfully point out it is Count 18, your Honor.

THE COURT: Count 15.

MR. KRIEGER: I beg your pardon.

THE COURT: Wilson first met Brown in 1971. They were introduced by a fellow named Brock who came up to Brown and said: I want you to meet Don and Don I want you to meet Jack, that Wilson told Brown he had been trying to reach him and meet him for over a year and no one seemed to want to introduce him; that it was his, Wilson's money, Alfredo Mojo had used when he came by to buy drugs from him. Wilson wanted to know if Brown wanted to give him a phone number because he wanted to do big business with him, directly. Brown agreed to do business and gave him Carol Cuffee's telephone number and told him whenever he was ready he should call Carol Cuffee and she would get in touch with him. According to the testimony, within a few weeks after that meeting, Wilson got in touch with Brown through Cuffee and purchased either half a kilo or a kilo and a half of cocaine in the first transaction.

d8

Brown continued to do business with him up until 1974, that from the time Brown met Wilson until he moved to Orangeburg in November, '72, he says he saw

Wilson every week and Wilson had an apartment near 133rd Street and Lenox Avenue, a place called Lenox Terrace, an apartment above the bar called the Shalimar, Seventh Avenue and 134th Street. The government contended, according to Brown's testimony, in 1972 just before Brown moved to Orangeburg and after he had received a shipment of 15 or 16 kilograms of cocaine from Angelo Rodriguez, he had occasion to see Wilson in front of the laundromat at Seventh Avenue and also Carol Cuffee's apartment and on one occasion during this time Wilson purchased a kilo of cocaine from Brown at 200 West 90th Street and that on the second occasion in the vicinity of where Carol Cuffee lived, Brown sold him 1 or 2 kilograms of cocaine.

Brown also testified to an occasion after February, 1974, when he moved to Opa-Locka, Florida. Wilso drove down from South Carolina and Brown sold him a kilogr of cocaine.

In May of '74 after Brown received another shipment of 18 to 20 kilograms of cocaine from Alvarez, Tony Alvarez, he again had occasion to see Wilson in Florida.

Wilson was staying at the Holiday Inn and had come to Miami to bring Brown money he had owed him. At that time he told Brown he could not lose any more coc because he was in the process of doing something else.

The government would call your attention, for your consideration, to certain letters from Wilson to Mr. Brown which the government contends shows Wilson was trying desperately to get in touch with Brown, in one of which Wilson used the phrase "You are my main man."

Parker testified meeting Wilson on a number of occasions, two times at West 66th Street, in April or May, '71, approximately two times at 200 West 90th Street, once alone and one time with Brown. On the occasion when Parker met Wilson alone at 200 West 90th, he said it was to give Wilson one to two ounces of cocaine. On the other occasion Wilson went with Brown into a bedroom once, and on one occasion entered the bathroom. Parker once drove with Jody to Lenox Terrace where she went to take a briefcase to Wilson. He said she was there half an hour after which they returned to 10 West 66th Street and Jody took the briefcase back to Brown in the bedroom. Parker testified from December, '72, to January, 1973, he was in Brown's house in Orangeburg except for occasional trips to Maryland. He saw Wilson there 10 to 20 times during those two months. Brown told Parker Wilson was coming to buy cocaine and he was getting half a kilogram, 1 kilogram and 2 kilograms; that one day Brown told Parker as Brown was cutting cocaine Wilson was coming for 1 kilogram and also came a half hour later. After a half hour to one and a half hours later with a paper bag, Michael Parker did not see the cocaine thereafter.

Count 16 charges defendant William Hightower with having possessed with intent to distribute approximatel one-fourth kilogram of heroin in the fall of 1971. The government contends that Brown took the heroin, that he had bought from defendant Intersimone, which I have already discussed with you in connection with Count 12, and delivere parts of it to various defendants including defendant Hightower to whom he sold a total of approximately 2 and a half kilograms in the fall of 1971 in quantities of one-eighth or two-eighth kilograms at a time. The government contends that either Hightower picked up from Brown in New York or Foster did, acting as Hightower's agent as was their practice at the time.

Now, I wish to charge you and call to your attention the following: The theory of the government on this count is that the heroin sold to defendant Willia Hightower came from Intersimone as charged in Count 12. Now there I charge you, ladies and gentlemen, you will recall under Count 12 I charged you about the applicable statute of limitations, that you had to find that the transaction between Intersimone and Brown had to occur subsequent to April the 5th of 1971 in order for it to be a basis for convicting Mr. Intersimone and I charged you, as you will remember, if you believe Brown that a heroin transaction occurred between Brown and Intersimone in the fall of either 1970 or 1971, but have a reasonable doubt as to whether it occurred in the fall of 1970 or in the fall of 1971, you must acquit Mr. Intersimone on Count 12.

Now, obviously since Mr. Brown says that he transferred some of this to Mr. Hightower, the time of the transaction as to the Hightower count becomes crucial because of the same statute of limitations. Therefore, if you believe that there was such a transaction with Mr. Intersimone but are unable to determine the year and because of that are unable to conclude beyond a reasonable doubt that the alleged succeeding transaction with Hightower charged in this count occurred after April 5, 1971, then you must acquit Mr. Hightower on this count.

Count 17 charges that in or about January, 1972, Mr. Hightower possessed in this district with intent to distribute -- this is January, '72 -- both one-eighth kilogram of cocaine and one-eighth kilogram of heroin. The government contends that the proof shows that Hightower and a few other friends of Brown came to New York for New Year's, they were all in Brown's apartment at 180 West End Avenue except for Brown. The following day, January 1st Brown went over and found that Hightower had been waiting for him and that Hightower was peeved at Brown for not being there, but Hightower nonetheless congratulated him and wished him a happy New Year. He wanted to get back to Washington and asked if Brown had the package from Florida, that Hightower had come up for. Brown told Hightower that he had to go and get it and subsequently Brown gave Hightower an eighth of a kilogram of cocaine and possibly two-eighths of a kilogram of heroin.

Count 18 charges defendants Hightower and Sidney Foster with possessing with intent to distribute in or about December, 1972, approximately one-eighth kilogram of cocaine. On this occasion, some time in the period shortly after November, 1972, when Brown's son Jason was born, Parker had come to New York. Sidney Foster, known as Chinch and Hightower came to New York to meet Brown but he was not there. They went to dinner and after waiting about an hour and a half, during which time Foster said he did not like being away during the day and Hightowe commented he would rather Parker brought the cocaine in Washington to him in the future and they went back to Brown apartment. Brown arrived and they went into the bedroom one at a time.

Later Brown told Parker that the reason they both came was that Chinch was breaking away from Hightower and he wanted separate packages. Brown told Parker on that occasion that each of them got one eighth or two eighths kilograms of cocaine, which I charge you does not constitute a material variance from the one eighth kilogram charged in the indictment.

Now, marshaling the evidence as to Mr. Foster, defendant Foster is charged in Count 1 as well as in substantive Count 18.

Count 18 is the one that I just read to you. According to the testimony, Jack Brown first met defendant Foster in Washington, D.C., when Brown was 17 or 18 years of age. He testified that in 1968 Hightower called him and put Foster on the line. Foster told Brown he was with Hightower now and that they were together, and Hightower got back on the line and asked Brown if it was all right if he would send Chinch up on occasions to pick up either the heroin or cocaine. Brown said all right, and thereafter Chinch would come up at least twice a month and then every week for a period in late '69 and early '70. And Brown continued selling directly to both Hightower and Foster until 1972.

Brown testified to an occasion in 1970 when he had a conversation with Chinch about selling drugs for himself. This occurred after Chinch had accumulated a bankroll of his own. The conversation, he says, took place at 180 West End Avenue in New York City during one of the visits he made on behalf of Hightower. At this time Foster told Brown he wanted to know if it was all right if he picked up a package for himself without Brown telling Hightower what he was doing. Brown told Foster it was not anybody's business what Foster did and he would not tell anybody; that thereafter every time Foster came up for Hightower he would come up for himself; that Brown testified he would sell him cocaine and heroin on these occasions in one eighth kilo and sometimes one fourth kilo amounts.

Brown also testified to the effect that after he received a delivery of cocaine from Tony Alvarez in May '74, Michael Parker was down in Florida visiting Brown and Brown went to the Marriott Hotel where he was staying and gave Parker two eights of a kilogram of cocaine, and Parker told Brown he was going to take it back with him and sell it to Hightower and Foster.

Parker also testified that he met Foster in early 1970 in his Capitol Heights apartment and that he saw Foster while he was living with Brown in New York on

ds3

three or four occasions, both at 180 West End Avenue and at 10 West 66th Street, and that he had a talk with Brown in the summer and fall of '71 about the purpose of Foster's visits.

Brown told Parker that Chinch was getting cocaine for himself and for Hightower. Parker testified that after Brown went into hiding in '73, he called Parker to come to New York and said that he had cocaine he wanted to get rid of and wanted Parker to take it to Washington and distribute it between Hightower and Foster and give him between five and eight one eighth packages of cocaine.

Parker agreed to take the cocaine into Washington and went to them and told them that Jack had said he was in trouble and needed their help and had some cocaine that he wanted them to sell him; that Brown had told Parker to give each of them an eighth apiece, and Parker told Hightower and Chinch that he had to go to New York to let Jack know what they said; that he would then return in a day or two; that he talked with Chinch and Hightower separately, talking with Chinch at the apartment around East Capitol Street and Benning Road. And Parker returned in a day or so, he gave him a one eighth package of cocaine and received $250 from Foster; that eventually Parker distributed the remainder of the cocaine to Hightower

ds4

and Foster, more to Foster than Hightower, over a period of four to six weeks.

Parker testified that in March of '74 he went to Miami to see Brown and Brown gave him a half kilogram of cocaine and told him to take it to Washington and distribute it among Hightower and Foster, which he did, and separately got in touch with each of them. He repackaged the half kilogram into one eighths and distributed it to Hightower and Foster over a four or five-week period.

Parker again saw Brown in Florida in June of 74 and received a kilogram which he took back and went back to Washington and got in touch with Hightower and Chinch and went to Chinch's house, to which Hightower came a short time later; that neither Hightower nor Chinch wanted to take the half kilogram of cocaine at that time, and Parker took it back to Miami.

Later Brown gave him the same kilogram back and he again took it to Washington and at that time gave Hightower and Chinch each two one eighth packages of cocaine. Over a period of about six to eight weeks Parker distributed the other kilogram amongst Hightower and Chinch.

In July of 1974 Brown called Parker and told him he was shot and Brown went down and got two kilograms of cocaine. Brown told him the cocaine was not cut and that Parker would have to cut it.

When he returned to Washington he went to Chinch and told him Brown needed to have the cocaine cut and asked him to get some; that Foster supplied him with cut and Parker cut the cocaine at his home; that he wound up with three kilograms of cut cocaine which he packaged in one half kilogram quantities and distributed them among Hightower and Chinch.

Estelle Tompkins testified she met both Foster and Hightower in the late 1940's and frequently saw them in 1968 in Washington. She testified to an occasion in 1968, at the time of the Washington riots, when her common law husband, George, who is a barber, told her at his shop he had no cocaine for her; that Chinch and Hightower then came by and George went out to see them and then five or ten minutes later George gave her 20 capsules of heroin.

She further testified she only saw Chinch once thereafter in 1974 and on that occasion she saw Richard Conte, who was her common law husband, get a package which turned out to have one ounce of cocaine.

Now, defendant Foster would like to bring to

ds6

your attention the fact that while Brown testified in 1968, around July or August, he received a telephone call from Hightower in Washington, and during that conversation Hightower allegedly put Foster on the wire to exchange greetings with Brown and that Hightower then got on the phone again and told Brown he and Foster were together and that the latter would be coming up to New York to pick up narcotics from Brown for Hightower.

Foster, however, denies that such a conversation could have occurred because, as stipulated by the Government, at the time of this alleged occurrence in 1968, Foster did not reside in Washington, D.C., and that at no time during that year up to February 1969 was Foster either in Washington or in New York City.

2 Brown also testified that Foster came into the picture in 1968, but as defendant Foster points out, the Government stipulated that at no time during 1968 was he in New York City or Washington.

Similarly, Foster would like to point out that while Government witness Tompkins said she saw Hightower and Foster outside of Willis' barber shop in Washington in 1968 at the time of the riots, the same stipulation that at no time during 1968 did Foster reside in Washington nor was present in Washington, that same stipulation makes

ds7

that impos le.

Foster would also like to bring to your attention what he claims are inconsistencies between the testimony of Brown and Parker. When first questioned on direct examination as to what period of time he was selling to Hightower and Chinch either directly or indirectly, Brown answered from 1966 with Hightower up to 1968 when Chinch came into the picture. After that period I sold them both up to November 1972 when Chinch stopped, but I continued selling heroin or cocaine to Hightower through my son-in-law, Michael, and through Lois.

Defendant Foster claims this testimony as to when he stopped selling narcotics to Foster contradicts the testimony of Parker, who testified that on various occasions during 1973 and 1974 he, Parker, pursuant to Brown's instructions, had sold narcotics to Foster and turned over the proceeds and sales to Brown.

Parker also testified that he had never seen Brown give Foster any narcotics nor had he ever seen Foster give Brown any money.

In regard to Count 18 of the indictment, which charges Hightower and Foster with receiving one eighth of a kilogram of cocaine in or about December 1972 from Brown, Foster points out that Brown did not testify about this transaction and claims that the only basis for this charge is the testimony of Parker, who related to Brown and told him that he, Brown, had given Hightower and Foster the narcotics at the time.

Count 19 charges that Hightower and Lois Sampson distributed and possessed with intent to distribute in this District in or about February 1973 approximately three eighths kilogram of cocaine. It is the Government's contention that at the time Lois Sampson was staying at Brown's house in Orangeburg, Lois Sampson and Jack Brown had a discussion about Hightower. Lois Sampson told Brown Hightower wanted her to take cocaine to Washington for him; that in February or March of 1973, according to Brown, she did so three or four times and that on each occasion he gave her one eighths, two eighths or three eighths kilograms of cocaine for Hightower.

Now, as to the defendant Hightower, I have marshaled the evidence for you as follows:

Defendant Hightower is charged in Count 1 and in substantive Counts 16, 17, 18 and 19. The Government contention is that Brown met Hightower in Washington, knowing him first at 16 or 17 years of age. In the fall of 1966 at Carol Cuffee's apartment at 200 West 90th Street, Hightower wanted to know if Brown would put him

ds9

in a position to make some money. Brown then started giving Hightower drugs on consignment.

In 1968 Hightower called him and put Foster on the line. Foster told Brown he was with Hightower, they were together, and an agreement was made that Chinch would come up on occasion and pick up heroin and cocaine. Brown said that was all right, and thereafter Chinch came up at least twice a month and then every week from a period late 1969 to early 1970, and Brown continued selling directly to both Hightower and Foster until 1972.

In 1970 when Brown had a conversation with Chinch about selling drugs for himself, to which he agreed, thereafter when Chinch came up for Hightower it was no longer as a partner, and Brown would sell him cocaine and heroin on these occasions in one eighth kilogram and sometimes one quarter kilo amounts.

Brown testified that in May of 1974 Parker took part of a shipment of cocaine from Tony Alvarez to Washington and delivered part of it to Hightower; that after Brown went into hiding in 1973 Parker again took cocaine, between five and eight one eighth package of cocaine; that he took these packages and talked to Hightower separately about whether he wanted it. And when Parker came back in a day or so he gave Hightower

's

a one eighth package of cocaine and received the sum of $150. This is for Parker's services; that eventually Parker distributed the remainder of the five to eight packages to Hightower and Chinch, more to Chinch than to Hightower, in a period of four to six weeks.

In March of 1974 Parker went to Miami to see Brown and Brown gave him a half kilogram, which he took to Washington, and got in touch with Hightower separately. He repackaged the half kilogram and distributed part of it to Hightower over four or five weeks; that in June of 1974 Brown gave Parker another kilogram to take to Hightower and Chinch; that neither of them wanted any of it. Parker took it back but later took it again back to Washington, at which time he gave Hightower two one eighth packages of cocaine over a period of about six to eight weeks, later distributing the balance between Hightower and Chinch.

In July of 1974, after Chinch had given him cut, Parker cut the cocaine at his home, and I have spoken of this earlier, and part of the cocaine that he cut at that time he distributed to Hightower.

Estelle Tompkins testified that both Foster and Hightower, she met them in the late 1940's and frequently saw them in 1968 in Washington. I have dsll

already spoken to you about the incident at the barber shop where George said he had no cocaine and Chinch and Hightower came by, and thereafter George gave her 20 capsules of heroin.

Brown testified in 1972 he stopped dealing with Hightower directly but continued dealing through his son-in-law, Michael Parker, and through Lois Sampson. Brown testified that he told Hightower about his money arrangement with Frank Motel in 1969.

Now, defendant Hightower would point out to you that Brown testified he had a clothing store in Washington, D.C., and that it was Parker's testimony that he came to New York; that he, Hightower came to New York to attend fights and to buy clothing.

Now, defendant Lois Sampson, charged in Counts No. 1, also charged in Counts 19, 20 and 21, it is the Government's contention that Brown's testimony shows he met Lois Sampson in 1968 through Joseph Sampson, and he dealt in drugs with Joseph and Lois with a frequently of three times a month at first and then two times a month, and that he continued dealing with Lois Sampson until 1973.

3 With regard to a transaction involving a Mr. Loften, which is in Count 21, which I will reach

shortly, it is the Government's conention that approximately three weeks after the delivery of the first kilogram of cocaine to Lofton, Reynolds called and came up to Orangeburg and said that Jimmy wanted two kilograms of cocaine. Lois Sampson and Reynolds went back to New York and later returned with $36,000 and Brown gave her two kilograms; that a month or so later Lois Sampson told Brown that Jimmy wanted to buy one or two kilograms; that Lois left an hour or so later with one or two kilograms of cocaine, and that Browne once met Jimmy Lofton outside of Frank Moten's Laudromat where he was introduced by Lois Sampson or Ann Reynolds.

It is the Government's further contention that Brown testified in April of 1973 Brown had a discussion with Lois Sampson. Lois told him Lofton wanted one eighth of a kilogram since he had run out. And Brown said okay, and Brown went to Beansie who said he would chec on it. In the interim Lois told Brown Jimmy did not want it. Beansie said he was ready and Brown paid Beansie the $20,000 and took the heroin.

The Government urges that Ann Reynolds testifi tot he effect she is Lois Sampson's sister. Joseph Sampson is Lois' common law husband whom she met in 1966. She also testified she knows Brown and Jan Brown; that s met Jack in February of 1973 and she talked with her sister Lois about what business Jack Brown was in in February of 1973. Lois told her Jack Brown was in the cocaine business; that Jack Brown had given Lois cocaine in appreciation for helping him around the house. Ann Reynolds testified Lois arranged the sale between Brown and Jimmy Lofton and the amount was apparently short and Lois was upset, but Brown told Lois just to bring it back and he would make it all right. Lois reported everything was straightened out.

Ann Reynolds testified to an occasion where Brown was filling baggies with cocaine, putting one kilogram of cocaine in each baggie, and that Jimmy and Lois showed up after midnight. In the kitchen there was a brown grocery-type bag on the table, also a canvas bag containing seven baggies filled with cocaine, which Jimmy had purchased, and that one bag was opened and Jimmy said he was not going to take the cocaine with him except for an amount for personal use, which he wrapped up in some money. The canvas bag was returned to the powder room by Lois or Ann Reynolds, and the next day Lois and Ann Reynolds left for New York and took the canvas bag with them.

When they got to Ann Reynolds house in the Bronx, she took some of the cocaine out of it and sniffed some of it, and Jimmy was called and he came along with a friend Don, who was conceded to be not Don Wilson. The next day Jimmy and Don returned and $68,000 was brought in a bag. Brown said that some of the $68,000 was missing. This was reported to Jimmy, who said he knew who had taken it.

Reynolds testified that the rest of the 10 kilogram deal eventually went through. At the time Jack Brown was running from the police and the remaining kilograms were given to Lois for Jimmy and that Ann Reynolds eventually learned that Jimmy got the cocaine.

Parker testified to the effect he met Lois Sampson about the time of his wedding in October of 1970 or shortly thereafter. Brown invited the Parkers to the Ali fight in Atlanta and the Sampsons were there, too.

In 1972 he saw Brown at Mr. and Mrs. Sampson's apartment in Maryland, and in the period December 1972 to January 1973 when he was staying at the Orangeburg house, Lois was staying there after New Year's, and that in April Jack told him on the phone Benny had been indicte and that a week later he saw Brown at which time Brown told Parker he had given Steve -- this is Dellacava -- $20,000 from Lois and others right before Steve was arrested.

T3

THE COURT:I think I will take a ten-minute recess.

(Jury left)

(In open court. Jury not present.)

MR.KRIEGER: Does your Honor want to hear any objections or exceptions now?

THE COURT: Why don't we wait until the end.

MR. BELLER: Your Honor, we have some problem with the charge that if they find the Intersimone deal happened in 1970, then the statute of limitations --

THE COURT: If you listened carefully, I didn't charge that way. It ends up with aving to find that the Sampson charge, Sampson sale was after but they can consider it in that connection, in relationship between them. The finding has to be the subsequent one, which was within the statute of limitations.

MR. BELLER: What I mean is, even if he is wrong as to the Intersimone deal, he knows he was dealing, Brown does, with these people in that period of time. He may relate those deals to his son's death or maybe he--

MR. COHN: Except as to Sampson he testified it was the fall of '71 which is the same language as the Intersimone stuff.

THE COURT: You will hear it again, Mr. Beller.

hph

I said that because of that you are unable to conclude beyond a reasonable doubt, the alleged succeeding transactions with the Sampsons --

MR. BELLER: The way I hear that means, your Honor, if you don't know about the Intersimone deals.

THE COURT: And that causes you to have a reasonable doubt when this transaction was because the witness tied it together with Intersimone.

MR. BELLER: And necessarily because of that doubt, is the way I hear it. I just ask the court to say that if you have a reasonable doubt about the Intersimone transaction, and you have a reasonable doubt about the transaction charged in the particular count you are considering, then you have to acquit. Because you are saying the government's theory is these drugs came--

THE COURT: It is the witness' testimony, Jack Brown said he gave the Intersimone narcotics to these people.

MR. BELLER: He said he cut it and mixed it with the Beansie heroin and distributed it to his customers at the time. All right, let's forget it, it's not a major point.

(Jury present)

THE COURT: Now, Count 20 charges that in or abou

hph

the fall of 1971, defendants Joseph Sampson and Lois Sampson possessed with intent to distribute approximately one-quarter kilogram of heroin. The government's contention with respect to this count is that in the fall of 1971, after Intersimone had moved to Accord, Intersimone sold Brown 4 kilograms of heoin and that Brown mixed this heroin with that he had with Beansie and after cutting it, Jack sold it to his customers; that Joseph and Lois Sampson were among his customers at the time, that he delivered heroin to Joseph Sampson in one-eighth of a kilogram at the time in the fall of 1971, in all approximately 2 kilograms on behalf of himself and his wife Lois who were partners at thetime.

The theory of the government on this count is that the heroin allegedly sold to the Sampsons came from the Intersimone transaction as charged in Count 12. I have already mentioned this to you in connection with an earlier count where I charged you as to the statute of limitations that you must consider whether or not it is applicable to the Intersimone transaction.

So that at the time of this transaction in this count, too, it becomes crucial because of the same statute of limitations question which you must determine whether or not it applies.

hph

Therefore, if you believe that there was such a transaction with Mr. Intersimone as Mr. Brown testified to but are unable to determine the year, and because of that are unable to conclude beyond a reasonable doubt that the alleged succeeding transaction with the Sampsons charged in this Count 20 occurred after April 5, 1971, then you must acquit the defendants Joseph and Lois Sampson on this count.

Now as to defendant Joseph Sampson, I marshal the evidence for him for you as follows: He is charged in the conspiracy count and substantive Count 20. The government contends that the evidence shows, according to the testimony of Brown, that Brown first met Joseph Sampson, also known as Boot, in Washington in 1960; Brown told Joseph Sampson, among others, of his money arrangement with Frank Moten, saying he had given his money for Moten to hold and use for his own purposes. Brown testified in 1972 he was in Las Vegas along with Michael Parker, Joseph Sampson and Frank Moten. This is the time that Brown testified Moten took a phone call and told the group that the Womacks had been killed. Michael Parker testified first meeting Sampson in 1969 in Capitol Heights when he married Jackie Brown on January 12, 1970, at his Capitol Heights apartment when Brown came down for a

d2

visit, that he next saw Joseph Sampson in August, 1970, and before he met him on that occasion, he spoke with Brown on the phone and Brown asked Parker to come to New York and deliver some money to him from Sampson. Joseph Sampson, Parker says, took it to the airport, gave him the money in a brown paper bag, Parker took a cab to West 66th Street and delivered it. Parker testified in August, 1972, he saw Sampson at Lois' apartment at Tacoma Park, Washington. By that time Parker had returned to Maryland and had a job doing construction work. On that occasion in August of 1972, Brown had called Parker on the phone, told him he was in Washington and he was in Boot's apartment. Parker went there and waited outside in the living room for about 20 minutes to a half an hour. Brown was in the bedroom.

Parker also testified during the period he was living in New York, he would see Joseph Sampson often at 180 West End Avenue, 10 West 66th Street and at fights, prize fights in New York; that he saw him approximately 20 or 30 times, that Brown liked Joseph Sampson a lot and talked about him a lot. He told Parker Sampson was getting cocaine from him.

On a number of occasions after Sampson had left Brown with Parker that Boot had gotten one-eighth or that he had gotten an ounce of cocaine.

Parker testified that Brown told him that sometimes Boot would owe him money for cocaine he had already gotten and Boot would come to him at times and wanted more cocaine before he finished paying him the money for that which he had already received.

Joseph and Lois Sampson were the godparents of Michael Parker's children. Parker also testified that in February, 1973, Brown, Parker and Joseph Sampson went to the fights in Las Vegas and after the fight Lois Sampson told Parker that Boot had shot her.

As to defendant Joseph Sampson, I call to your attention the following: The defendant contends Michael Parker in his four-page statement never mentioned the name Joseph Sampson although he mentioned 11 names and he made changes in the list. Michael Parker also stated he is the godfather of his children.

During the entire testimony, both direct and cross, Mr. Parker failed to identify Joseph Sampson with any heroin transaction and limited his testimony to cocaine transactions.

Count 21 charges Lois Sampson with possession t distribute approximately 1 kilogram of cocaine in and abo December, 1972. As to this count, it is the government

hph

contention that in December, 1972, Lois Sampson was staying in Jack Brown's house in Orangeburg, and during that time Ann Reynolds came to visit and the three of them, Reynolds, Lois Sampson and Brown had discussions about Jimmy Lofton. Lois told Brown that her sister Reynolds had a friend who was interested in buying 1 kilogram of cocaine, and if it was good he would want to continue doing business.

Brown agreed on condition that Lois Sampson and Ann Reynolds would vouch for him, namely, Jimmy.

The next day Lois and Ann returned to the Orangeburg house with $18,000 according to Brown, in return for which he gave them a kilogram of cocaine for Jimmy.

Count 22 charges in or about May, 1971, in this district, defendant Tommy Davis possessed with intent to distribute approximately one-eighth kilogram of cocaine. With respect to this count, it is the government's contention that in May, 1971, there was a birthday party for Brown at the Waldorf-Astoria, after the birthday party some people went to Brown's apartment at 180 West End Avenue and later on after everyone else had left, Brown sold Tommy Davis one-eighth kilogram of cocaine and heroin.

d3

Count 23 charges that in or about December, 1971,

hph

in this district, Tommy Davis distributed and possessed with intent to distribute approximately one-fourth kilogram of cocaine. The government contends that in November of 1971, Brown had a birthday party in a hospital for his son Todd; afterwards Davis came to his home and after people left the party, Brown sold him one-eighth or one-quarter kilogram of cocaine. The charge is one-quarter kilogram and I charge you the difference between one-quarter kilogram of cocaine in December, 1971, charged in the indictment and one-eighth or one-quarter kilogram of cocaine in November, which the government contends the evidence shows, is not a material variance if you, in fact, find there was such a transaction in November of those sizes.

Marshaling the evidence as to Mr. Davis, defendant Davis is charged in Count 1, as to Counts 22 and 23. According to Brown, he met Davis in Washington, in 1944, that Davis began purchasing drugs from him in 1968 and continued to do so until 1972. Brown and Davis became very close to each other in 1967; the beginning of 1967 until 1968 Davis and Brown were close friends. They would be together every day; that during 1967, Davis would ask Brown to put him in a position to sell drugs. Brown told him no at that time, but in 1968 Davis again asked and Brown told him the whats and whatnots of the business for his own protection and agreed to. Brown gave him some drugs, maybe a half an eighth of heroin and three or four ounces of cocaine; that in 1968 until 1972 Davis continued to purchase from Brown with a frequency of once or twice a month. He purchased mostly cocaine and on several occasions heroin. Brown also testified in effect that in November, 1970, he and Davis had a conversation in Brown's apartment, Davis told Brown he had some trouble in Newark with the Police Department, he had been arrested and charged with possession of narcotics and this was heroin he said Brown had given to him. The government calls to your attention Parker's testimony to the effect that in October, 1970, Brown invited the Parkers to the Muhammad Ali fight in Atlanta and met Davis there at that time; that during the time Parker was living in New York, he saw Davis at 180 West End Avenue and at the 66th Street apartment up to three times a week, and then on occasion, not for months at a time. When Davis arrived, he would stay sometimes half an hour, sometimes half a day; that in the summer of 1971 Brown had a talk with Parker and told him Davis was getting cocaine from him and he once told him he had given Davis 1 ounce of cocaine.

The government further commeds to your consideration the testimony of Police Sergeant Pepe of the Newark

Police Department testifying to the effect that on November 2, 1970, he arrested Davis and at that time there were three stacks of glassine envelopes, each containing a white powder, in the floor of his car was a white plastic bag containing more stacks of glassine envelopes, and a test revealed it was positive, and at the time of his arrest he had $2,300 in his pocket.

There was a stipulation in evidence that a woman named Annie Lenear, a police chemist in Newark, in the Newa Police Department, if she would have been called would testify she had examined the contents of a series of exhibits, GX52 put in evidence by Sergeant Pepe, and these little glassine envelopes she found one randomly taken from each group to consist of heroin.

Mr. Davis, on the other hand, contends that the evidence against him rests almost entirely on the testimony of Jack Brown and that Brown's testimony is unworthy of belief. In this regard he points to various inconsistencies in Brown's direct testimony, cross-examination, Grand Jury testimony and various statements given to government agents.

d4

Davis further contends that the 175 street bags of heroin he possessed in 1970 was not heroin, which he received from Brown as Brown has testified. Whether

hph

you credit Brown's testimony that this was his heroin and consider this possession of heroin as an act in furtherance of the conspiracy or you do not, it being only background in your determination as to whether Davis was in fact a member of the conspiracy as charged, I charge you that you may not consider this arrest or possession in connection with any determination of Mr. Davis' guilt on the substantive Counts 22 or 23. You may only consider it, as I have outlined to you, with regard to the conspiracy count.

Now, a young man, Mr. Ronny Davis testified here and said he was 19 years old and was the son of Tommy Davis, worked five days a week and goes to school five days a week; he has known Dawn Moten since 1969, they were schoolmates, she is the daughter of Frank Moten and he knew her in June of 1972. He gave the telephone number 923 1732 and said there were calls between himself and Dawn during that time.

Count 24 charges in or about November of 1971 in this district, defendant James Laws also known as Tobe, possessed with intent to distribute approximately 1 kilogram of cocaine. The government's contention is in November of 1971, Laws came to Brown's apartment and wanted to purchase cocaine, that he got the money for the cocaine from Brown but did not take it from him. His girl picked up a kilogram of cocaine for him by prearrangement.

Marshaling evidence to Mr. Laws, defendant Laws is charged in Count 1 and Count 24. The government's contention is that Brown first met Laws according to his testimony in 1976, before Brown went to Atlanta. Thereafter, in the summer of 1970, Laws met Brown and had a talk with him, at which time Laws told Brown he wanted cocaine; soon thereafter, in approximately June of 1970, drug transactions began between them with Laws purchasing cocaine from Brown, that at the first transaction Laws asked Brown if in the future it would be all right to send his girlfriend down to pick up the drugs because he had some heat on him and didn't want to come to Brown's house too often. Brown agreed, providing Laws would stand behind the person he would send. Thereafter the girl would come down with money and Brown would give her whatever amount she had money for, usually one-fourth to one-half kilo of cocaine.

Brown testified he and Laws had deals from 1970 to 1972. Brown testified that on one occasion in March or April of 1972, Laws called him and said he did not feel well and wanted to know whether Brown would do him a favor and come to his house in Astoria and give him a package and Brown said he would, took a kilogram to

hph

his house.

He also testified, Brown testified he met defendant Charles Cowper known as Shi through James Laws.

Parker testified he knew defendant Laws as Tobe and on one occasion in the fall of 1971 Parker and Brown had a talk about Tobe. Brown asked Parker to take a ride with him, he had a briefcase, they went to the car and on the way to Jody's apartment, Brown told Parker he wanted Parker to take Jody uptown to meet Tobe and give him a half kilogram of cocaine.

T4 am

rds

Brown and Parker pulled into the garage. Jodi was waiting for them. Jodi and Parker alone went to 140th Street and Eighth Avenue, and when they got there Jodi got out, went around the corner. About an hour later she returned. She said had to count the money.

Parker testified that approximately a month and a half after this occasion, he took a ride with Brown to a place in Queens, and during the car ride Brown told Parker he was on the way to Tobe's house.

Both sides, both Mr. Laws and the Government, have offered photographs of that house, as you may recall.

After knocking on the door and receiving no response, Parker and Brown went to a telephone booth, made a call, came back and knocked on the door and Tobe let Brown in and Brown was gone for about an hour.

During the time Parker was living in New York, Tobe came on two occasions to 180 West End Avenue. On the first occasion he went into the bedroom with Jack and stayed there between five minutes and an hour. On the second occasion Parker and Jack were just leaving to go to 10 West 66th Street, and Jack asked Tobe to drive them all over there. When they all got there they went upstairs, sat around the living room and then Tobe went into the bedroom with Jack.

The Government also calls to your attention the testimony of Estelle Tompkins, who testified she met Tobe in 1947, she was first properly introduced to him in 1960. In 1962 he gave her a package previously paid for containing approximately one ounce of heroin. In 1965 she had a talk with Tobe about a man named Shirt. She said to Tobe she wanted to buy heroin and Tobe suggested she see Shirt. She went and purchased heroin from Tobe in Shirt's presence and paid for that heroin with merchandise she had shoplifted. She purchased heroin from Shirt for about a year until he went to jail, and that on a couple of occasions Tobe was there.

As I said, she would pay Shirt with clothing, and when Tobe was there she said if he wanted something out of the clothing he would take it out of the clothing.

Mr. Laws contends to you as follows: That the Government's principal witness against him, Brown, has not been corroborated with respect to Mr. Laws' trip to Brown's apartment at 180 West End Avenue in November 1971, where Brown stated Laws gave him an unspecified amount of money and subsequently gave cocaine to an unidentified girl. This is the incident that is the basis of substantive Count 24.

Mr. Laws contends that although Brown testified

ds3

he had known Tobe since 1956, he failed to identify him at the trial.

Mr. Laws further contends that Brown's testimony with respect to a delivery by Brown of a kilo of cocaine in Tobe's house in March or April 1972 has not b corroborated. Moreover, Government witness Parker's testimony, Tobe urges upon you, is that he drove Brown to Laws' house in September 1971 and that Brown told him he went there to pick up money and that nothing was said with respect to the delivery of cocaine.

In addition Laws contends that Ramona Laws' testimony and the photographs of his house repudiate part of Parker's description of the house and establishes a question as to whether Parker was ever at the house.

Laws further contends that Parker never had a conversation with him with respect to drugs, nor did Parker ever overhear a conversation between Laws and Brown.

Moreover, Parker did not testify he ever observed any drug transaction involving Laws and his relationship with Laws was only casual.

Finally, Laws contends the Government presente no corroborative evidence in support of the allegations against him.

ds4

And remining you that the burden of proof is on the plaintiff, extending to proving every element of the crimes charged beyond a reasonable doubt, I wish to observe to you in this case that specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the acts for which he stands charged.

Count 25 charges that John Morris in or about May 1971 possessed with intent to distribute approximately two ounces of cocaine. The Government contends that in the latter part of 1971, according to Brown's testimony, Morris came to Brown's apartment and wanted to buy one or two ounces of cocaine; that on this occasion Morris asked Brown to look out of the window, and when Brown did so Morris pointed out a brand new green Eldorado Cadillac with a vinyl top which Morris had just purchased; that Brown gave him one or two ounces of cocaine on that occasion.

I charge you that any variance between two ounces of cocaine in or about May 1971 charged in the indictment and the one or two ounces in the latter part of 1971, if you find that to be a fact, is not a material variance.

Defendant Morris, to whom I am now going to marshal the evidence, also known as Papers, is charged in Count 1 and Count 25. The Government urges the proof against him shows that he met Brown in 1955 and again in 1966 and 1971; that he started purchasing drugs from Brown in 1968; that he purchased drugs, mostly cocaine, from Brown from 1968 up to 1972 in ounce quantities with a frequency of every two weeks up to every one or two days during the latter part of 1971.

According to Michael Parker, Parker met him at least once at 180 West End Avenue and not more than two or three times during the time he was living in New York. When Morris came to 180 West End Avenue he went into a back room with Jack Brown for half an hour or 45 minutes. Jack Brown told Parker that Solo Glaze and Morris, known as Papers, were friends and that Frank Moten, Solo and Papers were friends.

Parker testified that on occasion in June or July of 1972 he went to L. J. Mitchell's gas station in New Jersey, accompanied by Brown, and that L. J. was not there on that occasion but that Morris was there.

There is also for your consideration the relationship between Morris and L. J. Mitchell of which there is evidence in the form of a car registration in Morris' name listing L. J. Mitchell's address.

Marion Ladd testified to the fact that she met Morris in New York City in the 1950's and saw him very frequently after meeting him in 1958; that she saw him in the company of many persons, including Solo Glaze; that she saw him with drugs in the 1950's. She had talks with him about what he did with the drugs, and he told her he sold drugs and bought drugs. He testified that after 2 her husband died in 1970 she started seeing him again on a daily basis at her place and at his place. She kept seeing him until September 1972; that she last saw him in July 1974.

During the period November 1971 to September 1972 she spoke with Morris on the phone two or three times a week. She saw him at Jack Brown's apartment several times in 1971 when she was living with Solo Glaze. Once while there Morris went to the back room with Brown and told her he was going to purchase drugs.

She further testified that in 1971 she learned about a business relationship between Morris and Glaze. She was there when she bought drugs. She testified she saw Glaze and Morris cut drugs approximately once or twice a week between May 1971 and November 1971; that the packaging would typically take place from 11 p.m. at night, or midnight until dawn: that thereafter the Pitt sisters would take half of the drugs to sell and some other women that Papers had working for him would take the rest. Papers would take some also for sale.

She testified that Papers and Solo -- this is Morris and Glaze -- owned a bar, and that Solo told her it was a front for the Internal Revenue Service and also a place to sell drugs; that Glaze asked her for money for the bar and she gave him $10,000. The bar served both drinks and cocaine.

There was testimony to the effect that on one occasion Solo, L. J. and Papers met in the back room of Solo's apartment; that they were cutting drugs and explaining to L. J. Mitchell how to do it.

Mrs. Ladd further testified to the effect that Morris and Glaze were partners and that Moten would finance their purchases of narcotics. Particularly she testified to one occasion where she, Glaze and Morris went to Moten's house in Englewood. The occasion was in 1971 between May and November. Solo could not find Frank at the Laudromat or any of the other places he would call and wanted to get in touch with him for money to purchase drugs; that Frank was laid up at home with a bad back and told them to come over, and Solo called up Papers and Papers came down and picked up Solo and Mrs.

Ladd in the car and the three of them went to Fran's house in New Jersey.

She testified that Mrs. Moten answered the door, showed them downstairs tot he basement where there was a barroom where Frank has a desk off the barrom; that the four of them were snorting cocaine. Solo and Papers went into the office with Frank and they were three 20 to 30 minutes. They all snorted cocaine and sat around for about two hours and then left. Solo told Marion Ladd he had to go pick up the drugs, that he was going to drop her off at home. He told her he was going with Papers.

Mrs. Ladd testified to another incident when she went with Papers to pick up money from Moten at the Laudromat; that there were one or two such occasions during the period May to November 1971.

You will recall this is the period she said she was living at the Dorchester Towers on the west side of Manhattan.

There was one occasion on which Mrs. Ladd saw moneys. She was riding with Papers and he said he had to stop at Frank's to get some money and to make a pickup. He drove to the Laundromat, double parked, went inside and was there 20 to 30 minutes. When he came out he had a paper bag which he handed to her and told her to count

ds9

the contents. There were three packages inside of $100 bills, $30,000 in all.

There were other occasions she said she went with Papers to the Laundromat for money, but she never saw the money. Papers would tell her he would go for some which she never saw.

Police Detective Dorothy Johnson of New York City testified that in April of 1974 she purchased one ounce of narcotics from Solon Glaze which she said was short. Glaze told her to come back, and she returned tot he Casbah Lounge where she met Glaze. Solo said he would get the stuff, introduced her to Papers. Solo then left in a green Eldorado bearing New Jersey license plates; that she had a conversation -- this is Detective Johnson -- she had a conversation Papers, Marion Ladd and others at the lounge; that Papers said Solo was using his car.

Police Officer Stanley Martin testified he did surveillance of Dorothy Johnson on that occasion; got the license number of the green Cadillac and he saw it drive off at six o'clock and he saw Glaze return.

The car, as I believe I may have said earlier, was registered to Morris at L. J. Mitchell's address in New Jersey.

Defendant John Morris, however, contends that any narcotics he may have possessed were for his own personal use and not for sale. He contends he never sold any narcotics and indeed there is no direct evidence of any such sale.

Further he contends that any narcotics that he may have possessed were not in kilogram quantities but small quantities measured in ounces.

Further, even if there was a conspiracy, the defendant Morris was never a member of any such conspiracy, he contends.

Indeed he was never in Florida, Washington, Chicago or any other place outside of his home in New York City.

Count 26 charges that in or about September 1972 J. P. Morgan possessed with intent to distribute approximately two kilograms of cocaine. The Government's contention is that during August and September 1972 Morgan made three purchases of drugs from Jack Brown, including a purchase of two kilograms of cocaine, which occurred, according to Brown, on Amsterdam Avenue in the vicinity of 200 West 90th Street.

I charge you any variance in the indictment which charfes two kilograms of cocaine in September of

1972 and the two kilograms of cocaine in August and September of 1972, if you find that these transactions did in fact occur, is an immaterial variance.

Now, marshaling the evidence as to Mr. Morgan, defendant Morgan is charged in Count 1 as well as Count 26. The Government contends that the evidence shows that Brown met Morgan in 1970 or 1971 at Willie Womack's farm in Jersey; that Womack and Morgan were friends; that Brown saw Morgan two or three times out of the four or five times that he was at Womack's farm.

The Government further contends, according to the testimony of Brown, in August and September of 1972 Morgan started purchasing heroin and cocaine from Brown; that there were three occasions during that time period where Morgan purchased drugs from Brown. The first two such occasions were sales in one and two kilograms of cocaine respectively, which are charged in Count 26.
3 The first occurred in Carol Cuffee's apartment at 200 West 90th Street, while the second took place in the street in the vicinity of the building, and the third, as I may have said, involved one kilogram of heroin. It involved J. P. Morgan's car and it took place in the vicinity of Carol Cuffee's apartment at 200 West 90th Street.

There was testimony by Michael Parker concerning

Morgan. Parker first met him on the occasion of the Queen Elizabeth II cruise and was either introduced by Brown or Womack. He also met him at 180 West End Avenue and at a fight in Houston.

He further testified ten days after Womack died, Brown gave him a number and asked Him to call J. P. on a phone booth telephone; that Parker did so and J. P. came to Brown's apartment within one or two days. Parker saw him five days or a week later and Brown told Parker J. P. was coming to see him.

On that occasion Brown told Parker to put the half kilogram of heroin under the front seat of Brown's old Ford right outside the building, and when J. P. rang the bell to tell him that Parker would be right down, he followed Parker to 200 West 90th Street.

The Government contends when they got there they met and went up to Carroll Cuffee's apartment and Parker told Morgan to give him the money, and J. P. did and Parker gave J. P. the keys to his car and told him the heroin was under the seat. Afterwards Parker returned to West End Avenue and gave Brown the paper bag he got J. P. Morgan, which Brown told him was supposed to contain some 13 or $14,000. Parker testified he never looked in the paper bag.

Mr. Morgan contends as follows:

That he was a lifelong friend of Willie Womack and points to testimony of Womack's half sister, Theresa Parker. He contends through Womack he, Morgan, met Brown. While Womack was alive Morgan contends he neither saw Brown nor Parker without Womack. Morgan contends after Womack died he, Morgan, met Patsy Speight who lived on property which was owned by Anna Marie Ricevuto, who was Brown's common law wife, Jan Jordan.

Morgan further contends that a problem developed with regard to Speight and that Theresa Parker came to New York to check on it. When Mrs. Parker was unsuccessful, he claims she sought his help, claims he came to New York City to check on the property; that he spoke to Jack Brown and was given Larry Ricevuto's phone number.

Further he contends this number was given because the conversation was about the property and that the conversation was not about narcotics.

In this regard Morgan points to the testimony of Theresa Parker, Louise Hawthorne and attorney Leon Stanford. Morgan suggests that the calls between Womack's phone and Morgan's phone were not narcotic in nature and points to the lifelong friendship between Morg and Womack, as well as the testimony of Louise Hawthorne.

ds14

She received calls from Womack when J. P. was not home and she also received calls from a girl named Sandy who lived at Womack's farm.

Mr. Morgan also points to testimony of Mrs. Johnnie Pearl Baker, who stated that she was a customer of L. J.'s garage and that that was the reason the initials J. P. and her address and phone were found on a piece of paper at L. J. Mitchell's.

We will take about a 30-second recess.

(Short recess.)

(At the side bar.)

THE COURT: Mr. Offer has asked me to state that his client contends there were no kilograms delivered to him, just fractions of kilograms. But I cannot urge that upon the jury unless there is some support either in direct examination or cross-examination somewere.

MR. OFFER: I think there is. It was on cross of Parker and Brown. You may very well have it in your notes.

THE COURT: Mr. Offer, I cannot at this time add that to this charge. I am right down to the end and you are asking me to look something up. Not that I am questioning your good faith, but I have no ability whatsoever to have my staff check out the reliability of it, whether it should be in there. I am going to decline to add that to the charge at this point.

(In open court.)

THE COURT: Ladies and gentlemen, before we come to Count 27, you will take comfort from the fact that you will recall there are 30 counts.

Count 27 charges that in or about February of 1973 L. J. Mitchell possessed with intent to distribute approximately one kilogram of cocaine. On this count the Government contends that in February 1973 Mitchell told Brown he wanted to get back into action. He was intereste in cocaine, and that Mitchell thereupon started to purchase drugs from Brown again and that he purchased one eighth kilogram quantities of cocaine four times between February and March 1973, which I charge you, if you credit it, does not constitute a material variation from the indictment which charges one kilogram in or about February 1973.

The transfers were made either by defendant Mitchell picking up the drugs at Brown's house or they we delivered to Mitchell's house in Teaneck by Parker from Orangeburg.

MR. BELLER: Your Honor, may I briefly appro with Mr. Offer?

ds16

THE COURT: All right.

(At the side bar.)

MR.BELLER: Your Honor, our contention on that count is that it is a sale of Andrew of Detroit, which occurred in February 1973. There were other small transactions.

THE COURT: Give me the essential facts.

MR. BELLER: With respect to this count, Brown testified that in February of 1973 Mitchell approached him and told him that he had a customer named Andrew from Detroit who Mitchell wanted to purchase a kilogram of cocaine, and Brown agreed to do that. That was the testimony.

THE COURT: Did he deliver it?

MR. BELLER: Yes.

THE COURT: Where?

MR. BELLER: In Orangeburg, according to the testimony.

MR. OFFER: But the contention was, and the cross-examination will reveal, that he will contend that he was just a go-between; that the sale was between he and Andrew.

THE COURT: This is the Government's contention however.

ds17

MR. OFFER: That is right.

MR. BELLER: Here is our digest, your Honor (handing).

MS. CUSHMAN: It is on the second page actually.

(Pause.)

THE COURT: Did Mitchell come up to Orangeburg to pick it up?

MR. BELLER: Yes. There was a phone call.

THE COURT: I don't really need that much detail.

MR. OFFER: Your Honor, our contention was, if you recall, that the sale was to Andrew.

4 THE COURT: I have your contentions here, gentlemen.

Thank you.

(In open court.)

hph 1

T5

THE COURT: Ladies and gentlemen, the government has advised me that I have misstated their contention as to Count 27 which charges that in or about February of 1973, Mitchell possessed with intent to distribute approximately 1 kilogram of cocaine. It is the government's contention as to this charge that this involved one named Andrew from Detroit, that in February, 1973, Brown had a conversation with Mitchell who told him about a man named Andrew from Detroit. Mitchell said Andrew was coming in and he wanted to buy 1 kilogram of cocaine to furnish to Andrew. Brown told Mitchell he did not want to meet Andrew and at a subsequent point in time Mitchell came into Brown's house in Orangeburg, to pick up the 1 kilogram of cocaine to furnish to Andrew, according to the government's contention. It is that proof to which they point with regard to that count.

Now, marshaling the evidence as to Mitchell, he is charged in the conspiracy count as well as in Count 27. That count is the one as to which I have just spoken to you about.

In addition to the evidence that I have just recited to you, there is evidence the government contends to show in February of 1973, Mr. Mitchell purchased drugs from Brown, an eighth of a kilogram at a time on four occasions in February and March of 1973, delivery being made in each case either at L.J.'s house in Teaneck by Parker, or picked up at Brown's house in Orangeburg.

The government contends that Brown first met Mitchell in 1965, when Mitchell began purchasing cocaine from him over a period of three weeks in one, two, three-ounce quantities. Brown also met Jody at L.J. Mitchell's house and he saw her from 1965 until he became a fugitive.

There is testimony, you will recall, about some promissory notes which Mitchell gave to Brown in the aggregate amount of $7,000. These notes are not related to any narcotics transactions but the government contends they show ongoing relationship with Brown and Mitchell.

The transaction with Andrew I have just recited to you according to Brown's testimony. In connection with this, after Brown told Mitchell that he did not want to meet Andrew, Brown called Moten and told Moten that Mitchell would be having some money in a few days because Moten, according to Brown's testimony, had told him that L.J. owed him money and he was having trouble collecting. After the transaction, Brown, Moten and Mitchell met at Brown's house to discuss the debt. L.J. said it was Papers' or John Morris' responsibility, and Moten said no, it was Mitchell's responsibility, and Brown told Mitchell to give Moten $2,500 at that time.

Michael Parker testified that he saw Mitchell four, five times while he was living in Orangeburg in December of 1972 and January, 1973. He brought cocaine to L.J.'s house in Teaneck, from Jack Brown either two eighths or one half a kilogram at Brown's request in the second week of December; right before Christmas Brown asked Parker to take cocaine to L.J.'s house while on his way to Maryland, which he did.

On one occasion Mitchell came to Orangeburg and stayed in Brown's upstairs area for approximately an hour. Parker said he saw Mitchell twice at 180 West End Avenue in the summer of 1971, and in June or July, 1972, Parker went to Mitchell's gas station accompanied by Brown, L.J. was not there but at the time Morris was, that they all went to L.J.'s house where they remained approximately an hour.

Parker testified that having seen Mitchell and Brown snort cocaine together and having seen L.J. at Brown's apartment on West 66th Street.

Mrs. Ladd testified she met Mitchell through Glaze in 1971 and saw him quite often between May, 1971, and November. Marion Ladd also testified to an occasion when L.J. came over to see Solo and when L.J. left Solo told her he was going to send L.J. to someone to get drugs for him to sell.

She testified that there was an occasion about which I have earlier spoken where Solo, L.J. and Papers were in the back room of the apartment, Papers and Solo were cutting drugs and explaining to L.J. how to do it. She testified that Mitchell and Papers owned a gas station where L.J. worked.

d2

Drug enforcement agent O'Brien testified, and you may recall his testimony about the white powder marks on the blue carpeting and the picture of them leading from the bathroom to the bed in L.J. Mitchell's master bedroom, and the trap found in the wall in the laundry room. Certain of the government's exhibits in evidence are measuring spoons and a strainer as well as telephone books, photographs and white powder taken on the occasion of Mitchell's arrest about which you will recall the testimony.

O'Brien testified that Mitchell told him when h discovered the trap he said "It took you long enough to find it."

Mitchell had told him he kept jewels there. He told O'Brien that the paraphernaliafound by him was used to make up the two packages of cocaine, which the a found in the bureau.

Mr. Barbato, the chemist performed tests, on traces found on the blue rug in the bedroom and testified, as well as traces found on a strainer, a spoon as to which you have heard testimony. He testified these were traces of cocaine although the amounts in certain cases were so small it could not be weighed.

The Government Exhibit 132, a document from Mr. Mitchell's home has written on it, among other things, "Andrew, Detroit, Michigan."

Mr. Mitchell contends as follows: He says that he was a user and snorter of cocaine but contends that small amounts as furnished him by Jack Brown were furnished for his own personal use. He claims such infinitestimal amounts as were found in his bedroom were for his personal use and he points to the fact that the vacuuming of Mitchell's house reveals such small traces they could not be measured, that the stash, or that the hole in the wall when vacuumed by government agents revealed no evidence of narcotics and had no contents in it.

He urges that phone calls to and from his home and gas station in New Jersey by Jack Brown were in furtherance of close personal relationship between Mitchell and his family, Jack Brown and his family. Other phone

hph

calls are contended to be with regard to the sale and purchase of automobiles and auto products.

Mr. Mitchell would have you note that there is no testimony by anyone that the defendant Mitchell made a sale of narcotics to anyone or that any buyer paid any money to anyone therefore. He urges upon you that at most he was a user and possessed cocaine and had the same for his own use and that of his friends.

He also contends there is no evidence whatsoever to connect him with Tony Alvarez or any Florida co-defendants, Chicago or Washington or to show that he conspired with anyone, and claims at most he was a cocaine addict who had narcotics for his own use.

Count 28 charges that in or about February, 1973, in this district, Charles Cowper possessed with intent to distribute approximately one-eighth kilogram of cocaine. It is the government's contention that in February, 1973, Brown saw Cowper at 120 West 90th Street at which time Cowpoer told Brown he wanted to go back into the drug business, Brown initially gave Cowper one-eighth kilogram of cocaine in return for which Cowper gave Brown whatever money he had and in addition Cowper promised Brown to make up the remainder to him on the next deal.

Marshaling the evidence as to Mr. Cowper, he

hph

is charged in the conspiracy count as well as Count 28. Brown testified he first met Cowper in 1956, and in 1966 Cowper also known as Shi started buying drugs from Brown and continued to do so until 1970, at which time he left New York City. Cowper again purchased drugs from Brown from 1972 until April, 1973, and once again in Miami in 1974.

It is the government's contention the evidence shows in the period 1966 to 1970, Charles Cowper purchased heroin from Brown and in the period of 1972 and 1973 he purchased cocaine. With respect to one transaction in the latter part of 1974, it is the government's contention in late 1974 Brown telephoned Cowper and asked him to come to Miami. Cowper did go and Brown gave him 1 kilogram of cocaine. About this time you will recall Brown decided to leave Florida and there was testimony that he flushed 2 kilograms of cocaine at Disney World. He eventually got to Washington, D.C. around Thanksgiving.

The government contends that Brown saw Cowper at a New Year's eve party at the Holiday Inn in Washington, and on that occasion he had money for the earlier kilogram that Brown had given him in Miami. The government points to Government's Exhibit 16B, registration in the name of C. Cooper at the Holiday Inn, giving the

hph

address New York City, in the period December 30, 1974, and January 1, 1975.

Estelle Tompkins testified she primarily supported herself by shoplifting, as you will remember. She said she met Shi in 1967, in the presence of Tobe; started dealing in drugs with him in '68 at the time of the Kennedy assassination and went to get an ounce of cocaine from him for George. She testified she was a heroin addict from 1949 to 1973 and would purchase an ounce from Shi every two weeks and the ounce would cost approximately $1,000. She continued to deal with him until late 1969.

She testified she bought cocaine from Shi in the middle of 1973 in New York. She had given him approximately $900, $1,000 and received a package which she thought was cocaine, but it was not, it was heroin and Shi exchanged it for her.

Mr. Cowper, on the other hand, contends that his relationship with Brown was that of a dear personal friend, any drugs he may have received were for his own personal use. He says that he visited Brown in Florida and Washington in response to phone calls from Brown and points to the stipulation that Brown was never asked nor did he tell the grand jury that he allegedly sold 1

hph

kilogram of cocaine to Cowper in Florida.

Cowper contends these visits were personal and no drugs were sold.

Mr. Parker, Cowper contends, Parker never mentions his name to drug enforcement agents representatives when he was interrogated by them and signed a four-page statement on February 9, 1976--

MR. BELLER: December 9th, your Honor, I'm sorry.

THE COURT: December 9th, and he does not mention Cowper's name and Parker was unable to identify a photograph of Cowper shown to him, of January, 1976.

Brown, as I have said, testified under oath of an alleged purchaser of drugs coming from Chicago, allegedly serviced by Cowper until he left New York in 1970, and thereafter by Cowper's wife, defendant Marion Dunmore.

Cowper claims, however, the government has failed to either produce this purchaser or introduce any corroborative evidence this man ever existed or in fact purchased any drugs from Cowper or his wife. He claims any testimony by Estelle Tompkins as to an alleged sale of heroin from Cowper to her in the summer of 1973 must be patently false because she stated she was in the detoxification program, for two years and three months,

hph

which would show the starting time June, 1973.

Cowper claims her explanation she paid for heroin with stolen merchandise is not worthy of belief for the following reasons: Assuming, but not conceding Brown sold cocaine to Cowper, there is no testimony he in fact did sell heroin to Cowper. Assuming, but not conceding that Cowper sold heroin to Tompkins, defendant Cowper claims it is unreasonable to assume that he as a seller would demand payment in dollars rather than stolen merchandise.

Tompkins testified she was a government informer in 1973 and that Cowper and other of her friends knew of this arrangement. Cowper contends it would be reasonab

d4

to assume if you are selling drugs, which is not conceded, he would not sell to a person to be a government informer.

As to the conspiracy count, Cowper contends there is no evidence he knew any of the alleged conspirat who were named as suppliers and middlemen other than Brown, other than his wife Marion Dunmore and the drugs, if any, alleged to be received from Brown were for his own personal use, and if he did receive such, there was no intention to unlawfully, wilfully and knowingly distribute the same.

Counts 29 and 30 charge in or about December

hph

in this district, Mr. Raphael Bonilla possessed, with intent to distribute certain quantities of coaine. Count 29 charges approximately 8 ounces and count 30, approximately 10 ounces.

The government contends the evidence proves by the testimony of Michael Parker, that about a week after Parker went to Orangeburg to stay with Brown, Brown had prepared 18 one-ounce tin foil packages of cocaine, placed them in a paper bag and telling Parker the cocaine was for Little Michael; Brown later gave Parker eight of the one ounce packets and asked him to take them to Bonilla at 139th Street and Riverside Drive; Parker drove there and made the delivery to Bonilla. Parker made a second trip to that apartment right before Parker went home to Washington for Christmas in 1972; that on the second occasion Brown gave Parker in Orangeburg in his den 10 ounces of cocaine out of the same paper bag, which Parker was told to deliver to Bonilla which he did at 139th Street and Riverside Drive.

d5

Marshaling the evidence to Bonilla, also known as Little Michael or Spanish Michael, he was charged in the conspiracy count as well as Counts 20 and 30. The government contends Brown first met him at 290 West 90th Street in 1967 where he was introduced by Carol Cuffee that Bonilla began purchasing drugs in 1968, that Brown gave him cocaine to sell. They did business off and on until 1973; Brown saw Bonilla every week at 139th Street and Riverside Drive, and 180 West End Avenue, 200 West 90th Street and in April, May, June, 1973, at Coney Island. You will recall when Jack Brown learned he was under indictment, he testified that he went into hiding. He stayed at Mr. Bonilla's apartment for a few days and they went to Bonilla's girlfriend's apartment in Coney Island.

Mr. Bonilla on his behalf contends that while Mr. Brown testified that he knew him as Spanish Michael, he says he did not know his true name or know him by any other name. However, having made that statement on cross-examination, Mr. Brown stated the fact he didn't know his name because he was the godfather of Mr. Bonilla's child and therefore was in error when he answered the question on direct examination.

Further, Mr. Bonilla contends that Brown testified he did business with him over the years in an on and off fashion but Brown specifically denied Mr. Bonilla did any business whatsoever in the latter part of 1972 or early 1973, when Mr. Bonilla was working. Mr. Bonilla would also call your attention to the fact that while Brown testified that Bonilla bought drugs from him at Gwen's apartment in Brooklyn in May, 1973,after Brown's birthday party, on cross-examination he contends Mr. Brown's 73-page statement shows that specific reference was made to Mr. Bonilla's being at the party but drugs were sold only to Parker and no drugs were sold to Mr. Bonilla at that time.

He claims that Brown in his trial testified gratuitously added a similar amount was sold to Mr. Bonilla although nothing about this sale was contained in the 73-page statement.

Mr. Bonilla also points to the fact that Brown never testified as to any deliveries to Bonilla whatsoever in December of 1972. These deliveries are the basis of two substantive counts against Mr. Bonilla.

Further, while Michael Parker testified on trial on two occasions in December of 1972, he allegedly delivered cocaine to Mr. Bonilla at his apartment at 139th Street, in a written statement which Parker gave he indicated he delivered drugs three to four times while he, Parker, was living at East 85th Street which was from March, 1971, to July of 1972.

Parker also testified he called Bonilla in December, 1972, at a telephone number Parker had written

hph

on paper or memorized. He did not remember it, however, and did not have the paper. Parker said it was definitely not the number in the address book because he said Bonilla gave him that telephone number on one of the visits in December of 1972. Bonilla however would bring to your attention Government Exhibit 81A and B, which is a telephone line card in the name of Patricia Bonilla.

Based on the testimont of Gutofsky, the government telephone expert, the telephone number which Mr. Parker said Mr. Bonilla gave him and Parker put in his address book in November, '72, could not have existed until on or about June, 1973.

Now ladies and gentlemen, I have perhaps as much as 15 or 20 minutes left and then I'm sure counsel will want to speak with me at some length, and I may have some further matters to discuss with you. I think it's probably best at this point that you have your lunch and we are going to take a 45-minute luncheon break, 45 minutes. Obviously the case has not been yet submitted to you, I have not completed my charge, the lawyers have not had a chance to suggest things to me they may wish me to add or change, and therefore you are not to commence deliberations at all, you are not to discuss the case and you are to continue to keep an open mind. Please have

hph

d6

a good lunch.

MRS. ROSNER: Your Honor, you can't eat in 45 minutes. The cafeteria is closed.

THE COURT: All right, one hour, but everybody then please be prompt because the jury is right next door. They are having lunch in today.

(Jury left)

MR. COHN: Your Honor, there are a couple of misstatements, one of which is probably in my favor.

THE COURT: Let's do it after lunch.

(Luncheon recess at 1:05 P.M.)

AFTERNOON SESSION

(2.05 p.m.

(At the bench.)

THE COURT: Mr. Richman, you said Mrs. Solleder was distressed because you had given me some contentsions which referred to his wife as a distributor he knew in the course of conspiracy. The word "alleged" does appear earlier.

Mrs. Solleder, now that you are here, would you come up, please. I was saying to Mr. Richman, when I read this contention as to Shi, I read it, assuming I read what is on this page, I remember there is no evidence he knew any of the alleged conspirators or middlemen other than Brown and distributors other than his wife Marion Dunmore. The word "alleged" I trust covered all of that.

MRS. SOLLEDER: I didn't hear it.

THE COURT: I will read it again and I will say what Mr. Cowper's meaning by that is, that he didn't know any of these people.

MRS. SOLLEDER: Except his wife and Brown.

THE COURT: Yes, other than his wife and Brown.

MR. BELLER: On that subject, I think your

ps2

Honor said there was no evidence but there was evidence he knew Tobe.

MR. RICHMAN: Yes, no question about that he knows about him.

THE COURT: Then that ought to be in there too.

MR. RICHMAN: Yes, the post-arrest statement states that.

I have another statement, if I may.

THE COURT: I don't want to get into anything now other than what I want to correct.

MR. RICHMAN: I quoted language that was brought out on cross-examination by Mr. Anolik and the word was "they" and did not refer to an Assistant United States Attorney for whom I have the highest regard.

MR. BELLER: Thank you, Mr. Richman.

MR. COHN: Can we deal with this mistake?

MR. BELLER: Your Honor, I think I said that Mr. Sampson contends Michael Parker did not mention Joseph Sampson in his statement.

MR. COHN: Mr. Sampson made no such contention. The contentions I put in, in fact I did say once in regard to the money but not in regard to --

MR. BELLER: Just so we are clear --

ps3

THE COURT: Where did we get this from? You sent us contentions.

MR. COHN: My contentions were substantially truncated which will be in my objections. I'm quite put out by that but my contentions pointed out that he did mention, Count 20 --

MR. BELLER: I think what Mr. Cohn said was that in listing people who came from time to time to Brown's apartment at West End Avenue, Parker failed to list the name of Sampson though he listed 11 other naes. Your Honor said he didn't mention him at all in that December 9th statement.

MR. COHN: And in my summation it was that he had listed them.

MR. BELLER: My feeling is, it's bad for the Government but I don't think it makes --

MR. COHN: I don't care whether you correct it or not. I leave it up to you. I concede it is an error. I am put out that the other stuff I thought was important was left out from this rather complete submission.

MR. BELLER: Maybe it would be good to say when I marshal the evidence with respect to Mr. Sampson, I inadvertently misrepresented the contention of Mr.

Sampson. He doesn't deny Parker mentioned --

MR. COHN: I wouldn't want to say he doesn't deny. The fact is, I made a fair contention.

MR. BELLER: Mr. Sampson contends that although Parker mentioned his name in his December 9th statement, he did not say anything about Sampson coming to 180 West End Avenue.

THE COURT: The problem is that your statement permits the inference he is nowhere in the statement. I don't see that you mention in here anywhere --

MR. COHN: It's my contention, your Honor.

THE COURT: I am talking to you, Mr. Cohn. You say he signed the statement and in listing people who came he failed to list Sampson although he listed 11 other people and you then go on to something else, which leaves the inference he is not in that statement at all.

MR. COHN: That was not my intention.

THE COURT: You and Mr. Beller are dealing with all of these things on a long-time basis and you are dealing solely with your client but in picking your material and trying to put it into usable form, obviously the inference was that he wasn't there.

I am prepared to correct it. I am calling to your attention the fact that it was entirely reasonable to

2

ps5

deduce from what you gave to my chambers --

MR. COHN: I wasn't cantigating, your Honor.

THE COURT: I am going to put it the way you did it.

MR. BELLER: In that case, your Honor, I would rather you not do it at all because it will leave the jury with exactly the impression you had which is that it is not there at all and it will be saying it twice.

MR. COHN: I have no objection to your Honor saying:

I omitted to mention to you, which all lawyers in this case concede, that Mr. Sampson was mentioned in regard to the delivery of the money in the report of December 9th. It's absolutely accurate.

MR. BELLER: I would suggest the following:

I believe I misspoke to you when I said the contention here was that Mr. Sampson was not at all mentioned in the Parker statement of December 9th.

In fact, he was mentioned in connection --

MR. COHN: With the delivery of money at the airport, from Sampson to Brown.

MR. BELLER: In 1970.

(In open court. Jury present.)

THE COURT: Ladies and gentlemen, two misstat ments of mine with regard to matters have been called to my attention. One has been called and one I want to make sure there is no misinference from anything I said in that particular regard. When I was giving the contentions of Mr. Joseph Sampson, I had stated to you that it was his contention that Michael Parker in his December 9th, 1975 statement had never mentioned Joseph Sampson's name. That is not Mr. Sampson's contention. His contention is as follows, and I want this to be clear:

His contention is that it is not that Sampson was not mentioned in that statement, because it is acknowledged that he was mentioned, with regard to the delivery of some money that was to be taken by Parker from Sampson to Brown which was given to him at the airport. But, it is his contention that elsewhere in the statement in listing the people who came from time to time to Brown's apartment at West End Avenue, he failed to list the name of Sampson although he listed 11 other names and made changes in his own handwriting next to the list.

In giving Mr. Cowper's conentions, there was a contention which was given that there was no evidence that he knew any of the alleged co-conspirators except for certain people, and I wanted to be perfectly clear that what Cowper is contending is, that in other than the noncriminal relationship here, he asserts that he didn't know anybody involved in this case, than Brown, Tobe and of course his wife. He asserts there was no criminal association between them as charged here in this indictment in any way, shape or form.

Now, going on. As to Mr. Jones, this is Albert Lee Jones, sometimes known as Al from Norfolk, he is only charged in the conspiracy count. The Government contends the evidence as to him is that Brown met him in 1971 through one Pam and through John Kellem, that he met Al on Seventh Avenue between 123rd and 124th Streets, Al approached him and told him he wanted to do business with him and Brown agreed to do so; at that meeting Jones wanted a kilogram of cocaine according to Brown, but did not have the money to paid for it.

Brown on that first occasion gave him one eighth of a kilogram. Brown's testimony is he continued dealing with Jones until July or August of '72; that during the period from 1971 through '72, Jones purchased both heroin and cocaine from Brown once or twice a month.

Brown testified to an occasion in April or May of '71 at which time he sold Jones and eighth of a kilogr of cocaine. On that occasion Jones had asked to use Brown's bathroom so he could mix or cut some drugs.

Brown also testified during an occasion in '72 when Jones was at his apartment at 180 West End Avenue, he purchased some drugs where he related an incident in 1971 when Jones had gotten arrested with some of Brown's heroin.

There is also the testimony of Agent Holborow who arrested Jones for the sale of drugs in 1971. At that time he made a statement to the effect that he got the one kilogram of heroin for which he was arrested, from Brown.

There is further testimony Police Officer Dolan who testified at the time of Jones' arrest in April 22, 1976, in this case, Jones again made a statement in which he admitted knowing Brown and dealing in drugs with him. Both of these statements are in evidence.

You have heard testimony by Agent Holborow as to this statement. You have also heard testimony from Andrew Dolan about the second statement, which I have just mentioned to you. If you find that Jones did make either or both of these statements, I charge you that you may consider the statements but only against Jones in this case and against no other defendant, and you may give either or both of them such weight as you believe they deserve under the circumstances.

ps9

Now, Mr. Jones contends that while Brown on direct examination testified he sold drugs to Jones from April or May of '71 to July or August of '72, on cross-examination he testified that at the time of his debriefing in 1975, he stated he did business with Jones for about six months and that he stopped doing business with him when he moved to Orangeburg, New York, in November of '72. The time periods are not consistent and obviously one is impossible, since it has been stipulated that Jones was in Federal jail from September 27,1972 to April 22, 1975.

Jones further contends that although Brown mentions two specific sales, one in April or May of '71 and the second in '72, he does not mention a one-kilogram sale on November 12, 1971, for which Jones was arrested and convicted.

You have heard that commencing in September 26, 1972, he commenced to serve a jail term.

Jones contends that the fact that Brown never mentioned the one kilogram sale on November 12th, 1971, shows that Jones alleged confession of November 12, 1971, in which he states a purchase from Brown is incorrect as to his source of supply. He urges upon you he lied to protect his actual source of supply and contends the ager

ps10

did not believe him when he stated Brown was the source of supply and this is borne out by the fact that he did not give Brown's address and the agents never watched Brown nor attached his telephone at that time. He contends the confession is correct except as to Brown.

At the time of Jones' arrest in April of 1976, he gave a statement, Exhibit 79-A, that he dealt with Brown from 1969 to 1971. Defendant Jones claims this is not an admission since Brown either dealt with him from April or May of '71 to April of '72, or only from May of '72 to November of '72, a period when he was already in Federal jail. In his statement Jones states he never mentioned 180 West End Avenue. He contends Parker never testified he saw Brown give Jones narcotics or Jones give Brown any money, that at the time he saw him at 180 West End Avenue between June of '71 and up to May of '71; he contends Parker did not become familiar with Brown's business until April '71 and after that date he never saw Jones again.

While Parker claims Jones owed him $28,000, Brown never told Parker for what period. Further, Brown never testified that Jones owed him $28,000. Jones further points out that Parker on direct examination did say he saw Jones at 66th Street, however on cross-examination Parker said he thinks he did not see him at

West 66th Street.

Turning to Nelson Alvarez. He is charged only in Count 1, the conspiracy count. The Government contends that the evidence shows that Sureda knew Nelson Alvarez since the time Alvarez came from Cuba and that Tony Alvarez told him Sureda, that his brother Nelson would on occasion accompany him at the airport to pick up cocaine when it arrived and would participate in the cutting and packaging the cocaine.

Sureda testified his brother Nelson has taken cocaine to New York. Brown, in turn, testified that on one occasion Nelson came to his apartment at 180 West End Avenue accompanied by Angel's uncle in the summer of '71.

Brown recalled he was hot, to pick up some money for Tony, approximately 60 to $75,000. There is documentary evidence in the case that Nelson Alvarez was listed as an additional driver on an Avis rental agreement dated April 4th, 1971, in New York which also listed Angel Rodriguez.

Sureda testified that Nelson and Tony Alvarez installed two safes in Sureda's home which were used to hold money.

In addition, Brown testified that Tony Alvare told him he had used the cottages behind the house as a stash since his brother Nelson had built traps in them.

Brown testified that he himself saw a trap under the stove at 666 Northeast 83rd Terrace, Miami, which is the address of one of the cottages.

The Drug Enforcement forensic chemist, Mr. Henderson, testified about going down to Florida, to gather materials for trae analysis and testified about a trap under the stove at 666 Northeast 83rd Terrace and traces of cocaine found in the material removed from the trap.

Mr. Alvarez, Nelson Alvarez, on the other hand, points to the fact that Mr. Lazaro Yaujar testified that to the best of his knowledge his father, Eduardo Yaujar, also being Angel's uncle did not accompany Nelson Alvarez to Jack Brown's home to pick up money. Nelson Alvarez also points to the fact that Brown testified that Tony Alvarez told him that Nelson had built traps but there is no testimony that Jack Brown ever saw Nelson build a trap.

Now as to Marion Dunmore, defendant Marion Dunmore also known as Toni is only charged in the conspiracy count. The Government contends that the evidence with respect to her is that Brown met her in 1970, when her husband Charles Cowper left New York, that beginning in April '70 Brown sold drugs to her up to 1972, both heroin and cocaine; that in November of '71 she told Brown she had gotten in touch with a person that her husband had been doing business with in Chicago and she wanted to know whether she could buy and essentially continue to serve this man, meaning to give him cocaine and heroin through Brown.

Jack Brown testified he agreed and thereafter gave her drugs, both heroin and cocaine for which she paid. Brown would give her an eighth and perhaps on several occasions a quarter of a kilo of cocaine.

In addition, the Government contends the evidence shows that Brown sold heroin to defendant Marion Dunmore for her personal use at a frequency of every other day. The amounts involved were small, generally an eighth of an ounce or a quarter of an ounce.

Defendant Marion Dunmore contends that the quantity and the conditions under which he sold cocaine to her, that is, her personal relationship with him support the inference the cocaine was for her personal use. Brown testified she was an addict, that she was at his house on a direct basis, that he sold her heroin every other day, moreover she claims Brown never testified to how much he charged her for the cocaine nor how the deli

hps

took place nor did Brown say he ever met the men from Chicago. This, she contends, combined with the fact that during the 10-day period in May of '76 when Brown was introduced by Agent Gaffney, he never mentioned Marion Dunmore although he mentioned Shi and his alleged activity. This, she claims, leads one to conclude that Brown's recollection about her is faulty.

Miss Dummore contends this inference is reinforced by the fact that Brown had no records of numerous transactions with a multitude of other people. At best, she claims, the testimony involving her appears to be an afterthought.

Brown testified the only time he dealt with her was from April '70 through '72 and then only a few times. She contends this cast out upon the testimony that she was carrying on Shi's business since Shi did not return until 1973, whereas she claims that Brown testified he helped her to get a job as a waitress and stopped dealing with her in 1972. She contends that if the jury believes she was dealing with Brown, the fact that there is no testimoney that she knew anybody else in the alleged conspiracy, if any, must be one between the two of them alone and she was therefore not guilty of the conspiracy charged here.

hps

She also claims there is no proof by the Government that she could not have used the one eighth or one fourth kilo of cocaine for her own use since there is evidence she was a heavy addict.

Miss Dunmore's mother, Mrs. Marion Dunmore testified. She said she lived in public housing in Manhattan and lives there now with Toni, Shi and her son, has been living there for three years; Miss Dummore worked for the City Complaint Office. Mrs. Dunmore, her mother, pays the rent and Tony and Shi pay the other expenses. She testified that Toni lived in the Bronx on Grand Avenue before she came to live with her mother, in a walk-up apartment house. She never met Jack Brown in Miss Dunmore's apartment or the man from Chicago; she was living there with her son, she said; before Miss Dunmore went to work for the City, she worked as a waitress. She said she never saw drugs on Grand Avenue or on Toni's person and to her knowledge Toni never sold

Now, you have heard much testimony and much of my charge by weights of narcotics, kilograms, eighths, quarters, ounces, et cetera. For the purpose of appreciating the quantities of narcotics in this trial, I charge you that a kilogram is equivalent to approximately 2.2 pounds. It is also equivalent, of course, to 1000 grams. One pound contains approximately 454 grams, and one ounce contains slightly less than 28-1/2 grams. An eighth of a kilo is slightly less than 4.4 ounces.

You may recall that Jack Brown at one point testified that his eighths weighed approximately 4-1/2 ounces. An eighth of a kilogram is slightly more than a quarter of a pound.

Now, I have charged you at substantial length, as you are aware, upon matters, recalling to your attention matters you have heard here. I have obviously not called to your attention each and everything that you have heard here. I have, in reciting the defendants' contentions and various of the Government's contentions, I know I have not given you all of their contentions. If I were to do that and give you all the evidence, it would mean reading to you everything in the entire trial, and that would be beyond any reasonable limit in this case.

I am sure there are items of evidence, as I say, that you haven't heard from me; matters that counsel have urged upon you that I haven't mentioned, but the attorneys in their summations, which were extended, both attorneys for the United States and for the defendants, urged upon you various pieces of evidence, they have urged upon you various contentions and you are to keep all of

hps

those in mind, whether I mentioned them or not.

In the course of my reciting to you in the marshaling of the evidence, I may have recited to you a contention to which a defendant believes that there is a clear answer and has urged upon you that in summation. I might have urged a contention of the defendant to which the Government believes it has an answer and has urged that answer upon you in its closing addresss to you. You want to keep all of these in mind. You are to deal in the course of your deliberations.

Now, the Government to prevail must prove the essential elements of each of the charges by the required degree of proof, as I have charged you. If the Government has succeeded as to to any defendant on any charge, your verdict should be guilty as to that defendant on that charge. If it has failed, your verdict must be not guilty. Your verdict, ladies and gentlemen, must be unanimous. Your functions, as I have said before, you must be unanimous as to any defendant on any charge.. Your function, as I have said before, I wish to repeat, is to weigh the evidence in this case, determine the guilt or innocence of each defendant solely upon the basis of that evidence and upon my instructions.

At this point I feel it is not inappropriate

hps

to reread to you the oath that you took when you were sworn in as jurors here:

You and each of you as jurors and alternate jurors do solemnly swear that you will well and truly try the issue joined and a true verdict give according to the law and evidence, so help you God.

5

Under your oath, under that oath, as a juror, you cannot and you are now allowed and you are not to permit any consideration of a sentence which might be imposed upon the defendant if convicted, to enter into your deliberation or influence your verdict in any way. Your duty is to decide the facts here, to decide this case solely upon the evidence before you. In the event of d conviction, the duty of imposing sentence rests solely with the Court. Obviously, consistent with that oath that I have read to you, you must reject all appeals to bias, prejudice or sympathy from whatever source they are urged.

Each of you ladies and gentlemen as a juror is entitled to his or her own opinion, but each should, however, exchange views with your fellow jurors. That is what jury deliberation is; to discuss and consider the evidence, to listen to the arguments of fellow jurors, to present your individual views, to consult with one another

hps

and to reach an agreement based solely and wholly upon the evidence, if you can do so without violation of your individual judgments.

Each must decide the case for himself or herself after consideration and discussion with his or her fellow jurors, but you should not hesitate to change an opinion which, after discussion with your fellow jurors, appears erroneous.

However, if after careful consideration of all the evidence, in the argument of your fellow jurors, you entertain a conscientious view that differs from others, you are not to yield your convictions simply because you are outnumbered or outweighed. The final vote must reflect your conscientious conviction as to how the issue should be decided. If the Government has failed to carry its burden as to any defendant on any count, you should acquit that defendant on that count. That is your duty.

However, if the Government has carried its burden, you must not flinch from your sworn duty but you must convict.

If you fail to find beyond a reasonable doubt the law has been violated, you should not hesitate for any reason to find a verdict of acquittal. But, on the other hand, if you should find that the law has been violated as charged, you should not hesitate because of sympathy or any other reason to enter a verdict of guilty as a clear warning that a crime of this character may not be committed with impunity. The public is entitled to that assurance.

During your deliberations on the innocence or guilt of a defendant, one or more of your members may have a question of the Court; to desire to see certain evidence or to have certain testimony read back to you or tapes played for you. If you generally have a need for that after discussion, you may communicate with the Court and to ask for those things. You may also have other reasons to communicate with the Court such as when you reached a verdict. If this occurs, you should communicate with the Court in a handwritten note. In doing so, I caution you never to indicate in such communication how your vote, if any, stands at that particular time. Your deliberations are secret and it would be a breach of that secrecy to communicate how you are voting at any time except to announce that you have reached a unanimous verdict.

E6

hph 1

d7

In the event you cannot agree unanimously on a verdict after due deliberations, do not indicate to anyone, excluding the court, how the jury has voted or why you cannot agree unanimously. Merely indicate that you consider yourself deadlocked in such regard.

Madam forelady, if I should have occasion to ask you any questions in court during the course of your deliberations, if you were to come in to have something read to you, please pause carefully before you answer, considering my question and answer as simply and responsibly as possible. If the answer calls for a yes or no, just deal with it accordingly. Do not say any more than any more than necessary to inform me of an answer.

Now, you are not to deliberate except when you are all together as a jury in the jury room. At other times, you are not to deliberate. You are not to get together in the evening in small groups and discuss the matter. You are to discuss the case together as a body of 12 or at one time during the course of deliberations.

I will give you a suitable form which names each defendant, identifies the count in the indictment against that defendant with an appropriate column for recording your vote. Also, as to certain of the defendan

hph 2

listed under item 2 on the second page of that form as you will see, if you find any of those defendants guilty under Count 1, the conspiracy count, you are to state whether you find said defendant joined the conspiracy before or after May 1, 1971, that as you recall being the date the new law went into effect. If you conclude beyond a reasonable doubt that a defendant was a member of the conspiracy after May 1, 1971, but are unable to determine beyond a reasonable doubt whether he or she was before that date, your finding shall only be that said defendant joined after May 1, 1971.

The defendants, as I say, have been charged with separate crimes in the various counts. The jury must keep separate consideration, render separate verdicts with respect to each defendant and each count. Each defendant is entitled to have his or her guilt or innocence as to each of the crimes charged, as determined from his or her own conduct and from the evidence which applies to him or her as if she or he were being tried alone. The guilt or innocence of any one defendant of any of the crimes charged should not influence your verdict respecting the other defendants.

The jury may find any one or more of the defendants guilty or not guilty on one or more counts.

hph 3

Now ladies and gentlemen, that concludes my charge. I am sure that counsel are going to have things they wish to call to my attention, and while normally I would ask them to come to the robing room, under these circumstances I will ask you to retire to the jury room for a few minutes. You are not to commence deliberating because we may call you back for some supplemental instructions.

I will excuse you for a few minutes.

(Jury left)

THE COURT: Now, Mr. Yon, do you have any request for exceptions?

MR. YON: Your Honor, the only exception that I would take to the court's charge and the marshaling of the evidence, I do mean both, I don't mean to separate the is the over-emphasis by the court on the name of the defendant Juan Antonio Alvarez or Tony Alvarez. By that I mean in the court's giving its instructions on the law, the classic instructions on matters such as credibility of the witnesses and so forth, it seemed to me, and I admit I didn't catalog each instance, and I am not prepare with record references at this time, but it seemed to me that Mr. Alvarez's name was indicated in an inordinate number of times. The same thing regarding marshaling of made was a question for the court and the court has resolved that question, presumably in government's favor. So, therefore all of the evidence is now before the jury for its consideration under the conspiracy count except for the particular pieces of evidence that have been limited to a particular defendant.

THE COURT: Mr. Beller, I feel confident the jury is going to deem it that way at this point and I don't feel it is necessary for me to get into that and I think I would get into more trouble than any of us would want to get into. I appreciate your view.

MR. MITCHELL: Your Honor, just one question, not on--

THE COURT: I have to deal with Mr. Beller and we will have to go on.

MR. BELLER: That's all.

THE COURT: Let's get the jury.

(Jury present)

THE COURT: Ladies and gentlemen, with regard to Count 6, which was a charge that in or about January, 1973, Juan Antonio Alvarez, Angel Rodriguez and Luis Sureda unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately

18 kilograms of cocaine, Mr. Rodriguez's counsel has asked me to point out to you that with regard to the complaint about certain of that cocaine changing color, that it was of a different color, Mr. Brown did not testify about that. Mr. Parker was the one who testified and complained about it. Mr. Brown did not give testimony on that subject

I have apparently neglected to specifically focus your attention on the fact that in this case you can properly and should properly regard Marsha Ladd, Marion Ladd as an accomplice. You should judge her testimony in the light of the instructions that I gave to you as to how to weigh an accomplice's testimony.

Now, in the flow of words with regard to Mr. Intersimone, there was some concern as to a point where I happened to mention Mr. Capra and Mr. Guarino and I had used the expression, I believe "Beansie and his friend Capra and Guarino." If there was any misstatement on my part or if anybody heard that as "Benny" and his friend Capra and Guarino, I did not intend to say that if I did, and I should make it perfectly clear I was talking about Beansie and his friends, Capra and Guarino.

On behalf of Mr. Foster, you will recall Mr. Parker testified that there had been a time when Foster and Hightower came to New York and he, Parker, and Foster

hph

and Hightower went to a restaurant because Jack Brown was not there yet, and in that restaurant it was stated that one of them stated he disliked being away from Washington, for the whole day or words to that effect. In my summing up the evidence to you, I erroneously attributed that to Mr. Foster. It was not Mr. Foster who was the speaker of that. It was Mr. Hightower, and I clear that up.

It has been called to my attention that I may have conveyed the impression to you that Mr. Lazaro Yaujar and his father were defendants in this case. They are not defendants in this case. They are not co-conspirators in this case. They are neither, and you will have to treat them accordingly.

d21 Mr. Davis has asked me to call to your attention two things, and in this connection the government has authorized me to state that it does not contend whatsoever in this case that Mr. Davis is involved in this case beyond the year 1972, and Mr. Davis wishes me to call to your attention certain evidence that was adduced by its counsel and that is a stipulation that he was in jail from the period February 14, 1974, through February 17, 1976.

Mr. Cowper has asked me to call to your attention that I had said that he had gone to Washington and was there with Mr. Brown at New Year's eve, December 31, 1974. Apparently I referred to it as a New Year's eve party. According to the evidence, it was not a party. There were just the two of them together at that time.

All right, that concludes my charge to you on the law, ladies and gentlemen.

May I say to our three alternates at this point I am compelled by the law to excuse you from further service. On behalf of all of us I want to thank you for your faithful attendance and faithful attention to the proceedings and concern with them in the event matters should have required you becoming regular jurors and you are excused with the thanks of the court.

(Alternates excused)

(Marshals sworn)

THE COURT: Ladies and gentlemen, it is a quarter past 4. I am going to inquire of you about 6 o'clock as to what your pleasure is from that point on for the balance of the day, whether you wish to deliberate further into the day, have dinner, deliberate in the evening or whether you wish to cease at some point and have an evening's rest and change and resume in the morning.

So, I will be in touch with you if you are not in touch with me by 6 o'clock with regard to that matter.

(Jury left to deliberate.)

United States of America vs.

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DEFENDANT ANGEL RODRIGUEZ

DOCKET NO. 76 Cr 324 (RO)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

(XX) WITH COUNSEL Roy Black, esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea.

☐ NOLO CONTENDERE, (XX) NOT GUILTY

FINDING & JUDGMENT

There being a xxxxx verdict of

☐ NOT GUILTY. Defendant is discharged

(XX) GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Count 4-FIFTEEN(15)YEARS, and a COMMITTED FINE of $25,000.00
Count 5-FIFTEEN(15)YEARS, and a COMMITTED FINE of $25,000.00
Count 6-FIFTEEN(15)YEARS
Count 7-FIFTEEN(15)YEARS
Count 1-FIFTEEN(15)YEARS
The terms imposed in Counts 4,5,6,7 and 1, are to run CONCURRENTLY to each other.
The Committed Fines imposed in Counts 4 and 5 are to be CONSECUTIVE fines for a total committed fine of $50,000.00

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE 1-21-77

SIGNED BY
☐ U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN Date 1-21-77

☐ CLERK
☒ DEPUTY

[illegible]-AUSA

United States of America vs.

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DEFENDANT FRANK MOTEN

DOCKET NO. ➤ 76 Cr 324 (RC)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date ➤

MONTH	DAY	YEAR
1	21	77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Nancy Rosner (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

XX NOT GUILTY

FINDING & JUDGMENT

There being a XXXX verdict of ☐ NOT GUILTY. Defendant is discharged

XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substances in violation of Section 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Count 8-FIFTEEN (15) YEARS, and a FINE of $25.000.00
Count 9-TEN (10) YEARS, and a FINE of $25.000.00
The above prison terms and fines are to run CONSECUTIVELY to each other

Pursuant to provisions of Title 21, Sec 841, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE (3) YEARS on EACH of Counts 8 and 9 to run CONSECUTIVELY to each other, and to commence upon the expiration of his confinement.

Count 1-FIFTEEN (15) YEARS to run CONCURRENTLY to terms imposed on Counts 8 and 9.
The defendant is placed on SPECIAL PAROLE for a term of THREE (3) YEARS to run CONCURRENTLY to parole imposed in Counts 8 and 9 above.

SPECIAL CONDITIONS OF PROBATION

The defendant is to remain at MCC for a period of THIRTY (30) DAYS from today.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

CERTIFIED AS A TRUE COPY ON
THIS DATE 1-21-77
BY
( ) CLERK
(✓) DEPUTY

Beller-AUSA

United States of America vs. **United States District Court** for

DEFENDANT: SEBASTIAN INTERSIMONE

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 31 YEAR 77

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL David Keegan, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, ☒ NOT GUILTY

FINDING & JUDGMENT

There being ~~a finding~~/verdict of ☐ NOT GUILTY. Defendant is discharged ☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly, combined, conspired with others to distirbute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIFTEEN(15 YEARS on EACH of Counts 1 and 12, to run CONCURRENTLY to each other.

Pursuant to Title 21, Section 841, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3) YEARS on EACH of Counts 1 and 12 to run CONCURRENTLY to each other and to commence upon his release from confinement.

IT IS ADJUDGED: the defendant be FINED the sum of $25,000.00 on Count 1 to be paid or the defendant is to stand committed until the fine is paid or he is otherwise discharged according to law.

SPECIAL CONDITIONS OF PROBATION

The defendant is to remain at MCC for a period of THIRTY(30) DAYS from today.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY
☒ U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-31-77

CERTIFIED AS A TRUE COPY ON
THIS DATE 1-31-77
CLERK
X DEPUTY

United States of America vs. **United States District Court** for

SOUTHERN DISTRICT OF NEW YORK

DEFENDANT WILLIAM HIGHTOWER

DOCKET NO. 76 Cr. 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ XX WITH COUNSEL Harold C.N. Frankel, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ XX NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of
☐ NOT GUILTY. Defendant is discharged
☐ GUILTY.

Defendant has been convicted as charged of the offense(s) of [illegible] combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as [illegible] Schedule I and II controlled substance in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE(12) YEARS, on EACH of Counts 1,19,20 and 22, to Run CONCURRENTLY to each other.

Pursuant to the provisions of Title 21, Section 841,U.S.Code, the defendant is placed on Special Parole for a term of THREE(3)YEARS on EACH of Counts 1,19,20 and 22, to run CONCURRENTLY to each other and to commence upon the expiration of his confinement.

Defendant is to remain at MCC for TWO(2)WEEKS from this date.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

MICROFILM

FEB 1 1977

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ XX U.S. District Judge

☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

LLIER-AUSA

United States of America vs. **United States District Court** for

DEFENDANT SIDNEY FOSTER having ADMITTED that he was previously convicted on TWO(2) separate Federal Narcotic convictions and is subject to sentence as a Second Narcotics Offender.

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324(R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
1	21	77

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Victor Herwitz, esq.
(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, XX NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of
☐ NOT GUILTY. Defendant is discharged
X GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN(10) YEARS.

Pursuant to provisions of Title 21, Section 841, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3) YEARS, to commence upon the expiration of his confinement.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

XX U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

[illegible]

United States of America vs.

DEFENDANT JOSEPH SAMPSON

United States District Court for
SOUTERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324 (R.O.).

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Frederick Cohn, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, XX NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~ verdict of ☐ NOT GUILTY. Defendant is discharged / XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully, and knowingly, combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classfied as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN(10) YEARS on each of Counts 1 and 24 to run CONCURRENTLY to each other.

Pursuant to Title 21, Section 841, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3) YEARS on EACH of Counts 1 and 24 to run CONCURRENTLY to each other and to commence upon his release from confinement.

Bail is continued pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

JAN 21 1977

LEILER-AUSA

United States of America vs.

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DEFENDANT: LOIS SAMPSON

DOCKET NO. 76 Cr 324 (R.C.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Hudson Reid, esq.
(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, XX NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of
☐ NOT GUILTY. Defendant is discharged
XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE(12) YEARS on EACH of Counts 1,22,24, and 26, to run CONCURRENTLY to each other.

Pursuant to Title 21, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3) YEARS, on EACH of Counts 1,22,24 and 26 to run CONCURRENTLY to each other and to commence upon the expiration of her confinement.

Bail is continued pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

Richard Owen
RICHARD OWEN

Date 1-21-77

U.S. DISTRICT COURT
FILED
JAN 21 1977
S.D. OF N.Y.

...-A75A

United States of America vs. **United States District Court** for

DEFENDANT	YVONNE ALVAREZ SCHENHAULT
	SOUTHERN DISTRICT OF NEW YORK
	DOCKET NO. 76 Cr 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL	In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77 ☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel. XX WITH COUNSEL Royal Martin, esq. (Name of counsel)
PLEA	☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, XX NOT GUILTY
FINDING & JUDGMENT	There being a ~~finding~~/verdict of ☐ NOT GUILTY. Defendant is discharged XX GUILTY. Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21.
SENTENCE OR PROBATION ORDER	The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Count 13-FIFTEEN(15)YEARS and a $25,000.00 fine Count 1-FIVE(5)YEARS and a $25,000.00 fine The above prison term is to run CONSECUTIVELY to each other for a total prison term of TWENTY(20)YEARS. The fine imposed is CUMULATIVE for a total fine of $50,000.00. Pursuant to the provisions of Title21, Sec 841, U.S.Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3)YEARS on each of Counts 1 and 13, to run CONSECUTIVELY for a total Special Parole term of SIX(6)YEARS, to commence upon the expiration of her confinement.
SPECIAL CONDITIONS OF PROBATION	
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.
COMMITMENT RECOMMENDATION	The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE 1/21/77

SIGNED BY

☐ U.S. District Judge

☐ U.S. Magistrate

RICHARD [illegible] 1-21-77

CLERK

DEPUTY

United States District Court for
SOUTHERN DISTRICT OF NEW YORK

United States of America vs.

DEFENDANT DON WILSON

DOCKET NO. 76 Cr 324 (R.C.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Theodore Krieger, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

XX NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and [illegible]
combined conspired toghether and with others to distribute and possess
with intent to distribute heroin and cocaine, classified as a
Schedule 1 and 11 controlled substance in violation of Sections
812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT(8) YEARS, on EACH of Counts 1 and 18, to run CONCURRENTLY to each other. Pursuant to Title 21, Section 841, U.S.Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3)YEARS on each of counts 1 and 18, to run CONCURRENTLY to each other and to commence upon the expiration of his confinement.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

Richard Owen
RICHARD OWEN

Date 1-21-77

U.S. DISTRICT COURT
FILED
JAN 21 1977
S.D. OF N.Y.

United States of America vs. JAMES LAWS

United States District Court for SOUTHERN DISTRICT OF NEW YORK

DEFENDANT Having ADMITTED that he was previously convicted of ONE(1)seperate Narcotic Conviction, and is subject to sentence as a Second Narcotics Offender.

DOCKET NO. 76 Cr 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
1	21	77

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Howard J. Diller, esq.
(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

XX NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of

☐ NOT GUILTY. Defendant is discharged

XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1)and 841(b)(1)(A)of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN(10) YEARS on EACH of Counts 1 and 30, to run CONCURRENTLY to each other.

Pursuant to the provisions of Title 21, Sections 841, U.S.Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3)YEARS, on each of Counts 1 and 30, to run CONCURRENTLY to each other and to commence upon the expiration of his confiement.

Bail is REVOKED and the defendant is REMANDED.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

MICROFILM
FEB 1 1977

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

XX U.S. District Judge

☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

United States of America vs.

DEFENDANT TOMMY DAVIS

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL Nicolas Figueroa, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly did combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1)and 841(b)(1)of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO (2) YEARS ON EACH of Counts 1,28 and 29, to run CONCURRENTLY to each other.

Pursuant to Title 21, Sections 841,U.S.Code, the defendant is placed on Special Parole for a term of THREE(3)YEARS, on each of Counts 1, 28 and 29, to commence upon the expiration of his confinement

Bail continued pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM

FEB 1 1977

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

[illegible]-AUSA

United States of America vs.

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DEFENDANT JOHN MORRIS
Having ADMITTED that he was previously convicted on TWO(2) separate Federal Narcotic Convictions, and is subject to sentence as a Second Narcotics Offender,

DOCKET NO. 76 Cr 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH 1 DAY 21 YEAR 77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Martin E. Gotkin, esq.
(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, XX NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged
X GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substances in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN (10) YEARS.

Pursuant to Title 21, Sections 841, U.S. Code, the defendant is placed on SPECIAL PAROLE for a term of THREE (3) YEARS, to commence upon the expiration of his confinement.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

Ri Owen
RICHARD OWEN

Date 1-21-77

U.S. DISTRICT COURT
FILED
JAN 21 1977
S.D. OF N.Y.

HELLER-AUSA

United States District Court for

United States of America vs.

DEFENDANT LAWRENCE MITCHELL

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324(RO)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
1	13	77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL SIDNEY H. OFFER (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, ☐ NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of

☐ NOT GUILTY. Defendant is discharged

XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, clasified as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S. Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on EACH of Counts 1 and 30 to run CONCURRENTLY.

Pursuant to the provisions of Title 21, Section 841, U.S. Code, the defendant is placed on Special Parole for a term of THREE (3) YEARS on EACH of Counts 1 and 30 to run CONCURRENTLY.

Defendant is not to be transferred from MCC facility for at least THIRTY (30) DAYS from today.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
JAN 18 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-13-77

U.S. DISTRICT COURT
FILED
JAN 13 1977
S.D. OF N.Y.

[illegible]

United States of America vs.

DEFENDANT [illegible]

United States District Court for

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr. 324 (R.O.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
1	21	77

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Brian C. Baker, esq. (Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

XX NOT GUILTY

FINDING & JUDGMENT

There being a XXXXX verdict of
☐ NOT GUILTY. Defendant is discharged
XX GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of sections 812, 841(a)(1)and 841(b)(1)(A)of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on EACH of Counts 1 and 39, to run CONCURRENTLY to each other.

Pursuant to Title 21, Sections 841, U.S.Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3)YEARS, on EACH of Counts 1 and 39 to run CONCURRENTLY to each other and to commence upon the expiration of his confinement.

Bail is continued pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

SIGNED BY
XX U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

1-21-77

JAN 2? 1977

United States of America vs.

United States District Court for

DEFENDANT CHARLES COWPERS HAVING ADMITTED that he was previously convicted of ONE(1) separate Federal Narcotic Conviction, and is subject to sentence as a Second Narcotics Offender.

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr 324 (R.C.)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
1	21	77

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL William L. Richman, esq.
(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,
☐ NOLO CONTENDERE,
☒ NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of
☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly combined, conspired together and with others to distribute and possess with intent to distribute heroin and cocaine, classified as a Schedule I and II controlled substance in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, U.S.Code.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE(12) YEARS on EACH of Counts 1 and 36 to run CONCURRENTLY to each other.

Pursuant to Title 21, Section 841, U.S.Code, the defendant is placed on SPECIAL PAROLE for a term of THREE(3)YEARS on EACH of Counts 1 and 36 to run CONCURRENTLY to each other and to commence upon the expiration of his confinement.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM
FEB 1 1977

Signed by
☒ U.S. District Judge
☐ U.S. Magistrate

RICHARD OWEN

Date 1-21-77

U.S. DISTRICT COURT
FILED
JAN 21 1977
S.D. OF N.Y.

COPY RECEIVED
APR 13 1977
ROBERT B. FISKE JR.
U. S. ATTORNEY
SO. DIST. OF N. Y.